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महापत्तन प्रशुल्क प्राधिकरण

अधिसूचना

मुंबई, 9 मार्च, 2020

सं. टीएएमपी/56/2019- एनएसआईसीटीपीएल महापत्तन न्यास अधिनियम, 1963 (1963 का 38) की धारा 48 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, महापत्तन प्रशुल्क प्राधिकरण एतद्द्वारा न्हावा शेवा इंटरनेशलन कंटेनर टर्मिनल प्राइवेट लिमिटेड (एनएसआईसीटीपीएल) से उनके दरमानों के, प्रशुल्क दिशानिर्देश, 2019 के अंतर्गत, उसके दरमानों के सामान्य संशोधन के लिए प्राप्त प्रस्ताव का 20 फरवरी 2020 को निपटान किया था। तथापि, इस प्राधिकरण द्वारा अनुमोदित दरमानों के साथ (स्पष्ट) आदेश अधिसूचित करने के लिए लगने वाले समय पर विचार करते हुए, इस प्राधिकरण ने केवल संशोधित दरमानों को तत्काल अधिसूचित करने का निर्णय लिया था। तदनुसार, इस प्राधिकरण द्वारा अनुमोदित दरमान भारत के राजपत्र में दिनांक 03 मार्च 2020 को राजपत्र सं. 99 द्वारा अधिसूचित किया गया था। उक्त अधिसूचना मे यह कहा गया था की, यह प्राधिकरण आने वाले समय मे स्पष्ट आदेश अधिसूचित करेगा, तदनुसार, यह प्राधिकरण एतद् द्वारा संलग्न आदेशानुसार एनएसआईसीटीपीएल से उसके दरमानों के सामान्य संशोधन के लिए प्राप्त प्रस्ताव से जुड़ा स्पष्ट आदेश अधिसूचित करता है।

महापत्तन प्रशुल्क प्राधिकरण

मामला सं. टीएएमपी/56/2019-एनएसआईसीटीपीएल न्हावा शेवा इंटरनेशलन कंटेनर टर्मिनल प्राइवेट लिमिटेड - - -

आवेदक

<u>गणपूर्ति</u>

- (i). श्री टी.एस. बालसूब्रमनियन, सदस्य (वित्त)
- (ii). श्री रतन सच्चर, सदस्य (आर्थिक)

1739 GI/2020 (1)

आदेश

(फरवरी, 2020 के 20वें दिन पारित)

यह मामला न्हावा शेवा इंटरनेशलन कंटेनर टर्मिनल प्राइवेट लिमिटेड (एनएसआईसीटीपीएल), जवाहरलाल नेहरू पत्तन न्यास (जेएनपीटी) में एक बीओटी प्रचालक, से उनके 18 नवंबर, 2019 के पत्र संख्या सीईओ/एनएसआईसीटी/011/2019 के अंतर्गत प्रशुल्क दिशानिर्देश, 2019 के तहत उनके दरमानों के सामान्य संशोधन के लिए प्राप्त प्रस्ताव से संबंधित है।

- 2.1. इस प्राधिकरण ने 14 फरवरी, 2012 के आदेश संख्या टीएएमपी/54/2011-एनएसआईसीटीपीएल के द्वारा प्रशुल्क दिशानिर्देश, 2005 के अनुसरण में एनएसआईसीटीपीएल द्वारा तब दायर प्रस्ताव के आधार पर एनएसआईसीटीपीएल के दरमानों का संशोधन किया था। उक्त आदेश भारत के राजपत्र में 1 मार्च 2012 के राजपत्र संख्या 55 में अधिसूचित हुआ था। उक्त आदेश के द्वारा तत्समय प्रचलित दर में 27.85% की अक्रास दा बोर्ड घटौती की गई थी। एनएसआईसीटीपीएल के तब संशोधित दरमान और सोपाधिकताएं उक्त आदेश के भारत के राजपत्र में अधिसूचना की तारीख से 15 दिन की समाप्ति के पश्चात लागू होनी थीं और 31 दिसंबर, 2014 तक प्रभावी रहनी थी।
- 2.2. उक्त प्रशुल्क आदेश से व्यथित होकर, एनएसआईसीटीपीएल ने 14 फरवरी, 2012 के प्रशुल्क आदेश को चुनौती देते हुए माननीय बंबई उच्च न्यायालय में 2012 की रिट याचिका संख्या 2954 दायर की। माननीय बंबई उच्च न्यायालय ने 2 जुलाई 2012 के अपने आदेश के द्वारा 14 फरवरी 2012 के प्रशुल्क आदेश पर रोक लगाते हुए एनएसआईसीटीपीएल को 20 दिसंबर, 2008 के पहले के प्रशुल्क आदेश में अनुमोदित प्रशुल्क की उगाही करते रहने की अनुमित दे दी। माननीय उच्च न्यायालय का आदेश अभी भी लागू है और एनएसआईसीटीपीएल 30 दिसंबर, 2008 के प्रशुल्क आदेश के द्वारा यथानुमोदित प्रशुल्क की उगाही कर रहा है।
- 3. पोत परिवहन मंत्रालय (एमओएस) ने, महापत्तन न्यास अधिनियम 1963 की धारा 111 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 5 मार्च 2019 के अपने पत्र के द्वारा पीआर-14019/20/2009-पीजी(भाग-IV) उन बीओटी प्रचालकों के लिए प्रशुल्क दिशानिर्देश 2019 जारी किये जो पहले प्रशुल्क दिशानिर्देश 2005 द्वारा शासित होते थे। प्रशुल्क दिशानिर्देश 2019, भारत के राजपत्र में 7 मार्च, 2019 के राजपत्र संख्या 92 में अधिसूचित हुए। तत्पश्चात्, प्रशुल्क दिशानिर्देश, 2019 के खंड 1.7 के अनुसार, प्रशुल्क दिशानिर्देश, 2019 को कार्यान्वित करने के लिए कार्यकारी दिशानिर्देश भारत के राजपत्र में 11 जुलाई, 2019 के राजपत्र संख्या 244 में अधिसूचित हुए।
- 4.1. इस पृष्ठभूमि में, एनएसआईसीटीपीएल ने प्रशुल्क दिशानिर्देश, 2019 के अनुसरण में अपने दरमान के सामान्य संशोधन के लिए 18 नवंबर, 2019 को अपना प्रस्ताव दायर किया। एनएसआईसीटीपीएल द्वारा किये गए मुख्य निवेदन इस प्रकार हैं:
 - (i) एनएसआईसीटीपीएल ने प्रशुल्क दिशानिर्देश, 2019 का सावधानी से अध्ययन कर लिया है उक्त दिशानिर्देशों के अनुसरण में तथा कार्यकारी दिशानिर्देशों में यथानिर्धारित प्रपत्रों में समर्थित दस्तावेजों के साथ प्रशुल्क निर्धारण का प्रस्ताव तैयार किया है।
 - (ii). एनएसआईसीटीपीएल 2012 की रिट याचिका संख्या 2954 के संदर्भ में माननीय बंबई उच्च न्यायालय के समक्ष यह आवेदन दायर करने की मंशा रखता है कि प्रस्ताव 2012 की रिट याचिका संख्या 2954 में अंतर्विष्ट तर्कों और हमारे अधिकारों का पूर्वाग्रह लिए बिना है और इससे ऐसा कुछ नहीं है जिसे उसका अधित्याग समझा जाये।
 - (iii). एनएसआईसीटीपीएल ने जेएनपीटी को 15 नवंबर, 2019 के पत्र के द्वारा यह निवेदन किया है कि प्रशुल्क दिशानिर्देश, 2019 के खंड 1.9 के अनुसार वह अलग से करार निष्पादित करें। एक बार जेएनपीटी के साथ अलग से करार हो जाने पर, उसकी प्रति प्राधिकरण को प्रस्तुत कर दी जायेगी।
 - [बाद में, एनएसआईसीटीपीएल ने 18 फरवरी, 2020 के अपने पत्र एनएसआईसीटीपीएल और जेएनपीटी के बीच हुए अलग करार की प्रति उपलब्ध कराई।]

- (iv). चूंकि विभिन्न फार्मों में दी गई सूचना के साथ-साथ लेखापरीक्षित लेखाओं में दी गई सूचना गोपनीय है, यह अनुरोध है कि उक्त सूचना अथवा दस्तावेजों को आम जनता या विभिन्न हितधारकों/व्यापार निकायों को परिपत्रित या प्रकाशित न किया जाये।
- 4.2. प्रस्ताव की विशिष्टियां इस प्रकार हैं:-
 - (i) वार्षिक राजस्व अपेक्षा (एआरआर) का परिकलन प्रशुल्क दिशानिर्देश 2019 के खंड 2.1 के अनुसार 31 मार्च 2019 को 47,540 लाख रु. किया गया है।
 - (ii). चूंकि बोली प्रक्रिया को 29 जुलाई 2003 से पहले अंतिम रूप दिया जाना था, प्रशुल्क परिकलन में रॉयल्टी/राजस्व हिस्से को लागत के रूप में लिया जायेगा जो प्रशुल्क निर्धारित के लिए अगले उच्चतम बोली लगाने वाले द्वारा उद्धरत दर की अधिकतम राशि के अधीन होगा, अर्थात प्रदत्त वास्तविक रायल्टी का 69.50%। 18 सितंबर, 2019 के एक पंचाट (पंचाट) के द्वारा पंचाट ट्रिब्यूनल ने, अन्य बातों के साथ-साथ, यह निर्णय दिया कि प्रति टीईयू रायल्टी को राजस्व हिस्से में परिवर्तित किया जाना जरूरी है, और जेएनपीटी को पंचाट की तारीख से 4 महीने के भीतर (यानी 18 जनवरी 2020 को या उससे पूर्व) एनएसआईसीटीपीएल के साथ परामर्श करके लाइसेंस करार को संशोधित करने निदेश दिया। अब तक, संशोधित लाइसेंस करार नहीं हुआ है।
 - (iii). एनएसआईसीटीपीएल के वित्तीय विवरण ईंडएएस के अनुसार हैं। संगत ईंड एएस समायोजनों को छोड़ दिया गया है और आईजीएएपी के अनुसार मूल्यह्रास अथवा अन्य समायोजनों को खंड 2.3.2 के अनुसार एआरआर परिकलन के लिए शामिल कर दिया गया है।
 - (iv). इस प्रकार परिकलित एआरआर को वित्तीय वर्ष 2019-20 के लिए प्राधिकरण द्वारा घोषित वृद्धि गुणक 4.26% द्वारा सूचकांकित किया गया है। सूचकांकित एआरआर का परिकलन 49,566 लाख रु. किया गया है। सामान्य प्रहस्तन, भंडारण और अनुषंगी प्रभारों को 42,312 लाख रु. के कम एआरआर पर प्रस्तावित किया गया है।
 - (v). एनएसआईसीटीपीएल ने प्राधिकरण के 14 फरवरी, 2012 के आदेश को 2012 की रिट याचिका संख्या 2954 में चुनौती दी और माननीय बंबई उच्च न्यायालय ने उस आदेश पर रोक लगा दी। प्रशुल्क दिशानिर्देश, 2019 का खंड 3.1.1 उपबंध करता है कि "कुछेक बीओटी प्रचालकों के दरमानों की समीक्षा प्राधिकरण द्वारा पारित प्रशुल्क आदेशों पर उच्च न्यायालयों में लंबित मुकदमों के कारण नहीं हो गई है। मुकदमेबाजी की अविध के दौरान, ग्राह्म लागतों और अनुमत प्रतिफलों से अधिक अतिरेक/घाटे,यि कोई है, संबंधित न्यायालयों के आदेश के अधीन होंगे। विकल्पत: मुकदमबाजी की अविध के दौरान होने वाले पूर्वाविध अतिरेक के संबंध में निर्णय एमओएस संबंधित महापत्तन न्यास, संबंधित बीओटी प्रचालक और प्राधिकरण निर्णय ले सकते है।"

हम पूर्व के किसी अतिरेक को स्वीकार नहीं करते, चालू मामले में एनएसआईसीटीपीएल के अधिकारों के पूर्वाग्रह के बिना, हमने 7,253 लाख रु. प्रति वर्ष की राशि का पूर्वानुमान लिया है जो पिछले 3 वर्षों की अविध के लिए 21,759 लाख रु. बनती है। उक्त खंड को ध्यान में रखकर चर्चाओं के अनुरूप् परस्पर निर्णय पर निर्भर करते हुए, एनएसआईसीटीपीएल द्वारा पूर्वानुमानित एआरआर को चालू मामले में किसी पूर्व अतिरेक को यदि ऐसा निर्धारित होता है, समायोजित किय जाना चाहिए।

- (vi). जहां तक तटीय प्रशुल्क का संबंध है, उन्हें भारत सरकार, पोत परिवहन मंत्रालय के नीति निर्देशों और कार्यकारी दिशानिर्देश के खंड 8.3 और प्रशुल्क दिशानिर्देश 2019 के हवाले से सामान्य प्रहस्तन प्रभारों के 60% पर मिलाया जाता है।
- (vii). संलग्न दरमानों में प्रस्तावित प्रशुल्क भारत सरकार द्वारा यथाघोषित थोक मूल्य सूचकांक के 60% पर सूचकांकित किया जायेगा। ऐसा संशोधन पहली बार 1 मई 2020 को और तत्पश्चात् 1 मई 2021 को होगा।

- (viii). खंड 9.9.3 के अनुसार जोखिमपूर्ण और अति आयामी कार्गो के प्रशुल्क प्रहस्तन और भंडारण प्रभारों के 50% प्रीमियम पर प्रस्तावित किये गए हैं।
- (ix). अमेरिकी डॉलर मूल्यवर्गित राजस्व की गणना के लिए 70/- रु. प्रति अमेरीकी डॉलर की विनिमय दर का प्रयोग किया गया है।
- (x). वर्तमान में, लाइसेंस करार के अंतर्गत प्रतिस्थापित की जाने वाली 6 नग घाट क्रेन ओर 15 नग आरटीजीएस पर अभी सुविचार नहीं किया जाता है। उपस्कर की सुपुर्दगी मई 2020 में प्रत्याशित है और उपस्करों के जुलाई 2020 तक प्रचालन में लिये जाने की प्रत्याशा है। प्रचालन से पूर्व, एनएसआईसीटीपीएल प्राधिकरण से संपर्क करने का अधिकार आरक्षित रखता है क्योंकि इस परिवर्तन से एनएसआईसीटीपीएल के अतिरेक प्रशुल्क परिकलन और पूर्व अतिरेक के प्रति एआरआर समायोजन पर आर्थिक प्रभाव पड़ सकता है।
- 4.3. एनएसआईसीटीपीएल ने फार्म 1 में वार्षिक राजस्व अपेक्षा (एआरआर) का विस्तृत परिकलन और फार्म-4 में प्रस्तावित दर पर राजस्व आकलन प्रस्तुत किया है। एनएसआईसीटीपीएल द्वारा प्रस्तुत एआरआर परिकलन kaa सार स्थिति नीचे सारणीबद्ध की जाती है:-

(लाख रु. में)

क्र.सं.	विवरण		वाई1	वाई2	वाई3
			2016-17	2017-18	2018-19
(1).	कुल व्यय	टिप्पणी			
	(लेखापरीक्षित वार्षिक लेखाओं के अनुसार)	1			
(i).	प्रचालन व्यय (मूल्यह्रास सहित)		38,292.10	36,895.20	36,768.83
(ii).	वित्त और विविध व्यय (एफएमई)		56.90	58.60	59.80
	कुल व्यय 1=(i)+(ii)		38,349.00	36,953.80	36,828.63
(2).	उन मदों का समंजन जहां आईएनडीएएस (लेखापरीक्षित लेखाओं के अनुसार) और आईजीएएपी के अनुसार आंकड़ों में विचलन है।)	फार्म 6 क और टिप्पणी 2			
(i).	म्ल्यह्रास		-	-	-
(ii).	व्यय की अन्य मदें, यदि कोई हों, सूचीबद्ध की जाए – प्रदत्त पट्टा किराया		-	-	-
	समायोजनों का योग 2=(i)+(ii)		-	_	-
(3).	घटाएं: समायोजन				
(i).	पत्तन को प्रदत्त वास्तविक रायल्टी/ राजस्व हिस्सा		21,855.20	20,297.50	19,752.10
(ii).	ऋणों पर ब्याज		-	1.00	6.70
(iii).	अप्राप्य और संदिग्ध ऋण का प्रावधान		-	4.00	-
(iv).	धीमी खपत की माल सूची का प्रावधान		-	-	-
(v)	अन्य प्रावधान, यदि कोई हो।		-	-	-
	3 का योग = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]		21,855.20	20,302.50	19,758.80
(4).	जोड़े: प्रशुल्क दिशानिर्देश 2019 के खंड 2.2 के अनुसार ग्राह्य रायल्टी/राजस्व हिस्सा	फार्म 2 और टिप्पणी 3	15,189.36	14,106.76	13,727.71
(5).	सभी समंजनों के पश्चात् कुल व्यय (5 = 1+2-3)		31,683.16	30,758.06	30,797.54
(6).	क्रमांक 5 का औसत व्यय = [वाई1 + वाई2 +वाई3] / 3				31,079.59
(7).	पूंजीगत नियोजन				
	(i). बीओटी प्रचालक द्वारा अनुसारित वाई3 के 31 मार्च				99,661.12
	अथवा वाई3 के 31 दिसंबर को सकल स्थायी आस्तियां				
	(संपत्ति, प्लांट और उपस्कर (आईजीएएपी के अनुसार)				

	T	1	
	(ii). जमा : बीओटी प्रचालक द्वारा अनुसारित वाई3 के 31		1.81
	मार्च अथवा वाई3 के 31 दिसंबर को प्रगतिधीन पूंजीगत		
	कार्य (लेखापरीक्षित वार्षिक लेखाओं के अनुसार)		
	(iii). जमा : प्रशुल्क दिशानिर्देश 2019 के खंड 2.6 में	फार्म 3	
	निर्धारित मानकों के अनुसार कार्यशील पूंजी	और टिप्पणी 4	
		के अनुसार	
	(क). माल सूची	10-13-(IIX	307.60
	(ख). विविध देनदार		-
	(ग). रोकड़		2,909.47
	(घ). (क)+(ख)+(ग) का योग		3,217.07
	(iv). कुल नियोजित पूंजी [(i)+(ii)+(iii)]		1,02,880.00
(8).	नियोजित पूंजी पर क्रमांक 7(iv) पर 16% प्रतिफल		16,460.80
(9).	वार्षिक राजस्व अपेक्षा (एआरआर) 31 मार्च को या वाई3		47,540.39
	के 31 दिसंबर को [(6)+ (8)]		
(10).	वाई4 के लिए लागू एआरआर में @ 100% सूचकांकन		4.26%
	उदाहरणार्थ यदि वाई4 2018-19 है तो ग्राह्म डब्ल्यूपीआई		
	3.45% है और वाई4 के लिए सूचकांकित एआरआर (9) x		
	1.0345) होगा।		
(11).	उपर्युक्त क्रम सं. 10 के अनुसार अधिकतम सूचकांकित वार्षिक राजस्व अपेक्षा (एआरआर)		49,565.61
(11क)	पूर्व अतिरेक का स्वैच्छिक समायोजन - (जबिक हम किसी		7,253.13
	पूर्व अतिरेक को स्वीकार नहीं करते यदि ऐसा कोई अतिरेक		
	परस्पर विचार-विमर्श से अथवा माननीय उच्च न्यायालय के		
	निर्णय से उठेगा, एआरआर की 21,759 लाख रु. (7253.13		
	लाख रु. X 3) की हमारे द्वारा छोडी गई राशि को उसके प्रति		
	समायोजित किया जायेगा।"		
(12).	उपयुक्त क्र.सं. 11 पर अपेक्षित अधिकतम सूचकांकित	फार्म 4	42,312.48
	वार्षिक राजस्व (एसओआर) के भीतर अनुमानित प्रस्तावित	और टिप्पणी 5	
	सूचकांकित एआरआर (समायोजन के पश्चात् पिछला	।८५५गा ठ	
	अधिशेष) [(11)-11क)]		

- 4.4. एनएसआईसीटीपीएल ने फार्म 4 में वर्ष वाई1, वाई2 और वाई3 के दौरान एनएसआईसीटीपीएल द्वारा वास्तविक प्रहस्तित यातायात की औसत निकालने के लिए मौजूदा प्रशुल्क के साथ प्रस्तावित प्रशुल्क के राजस्व आकलन की गणना प्रस्तुत की है। उक्त फार्म के अनुसार प्रशुल्क के प्रस्तावित स्तर पर कुल राजस्व आकलन 42,312 लाख रु. है। एनएसआईसीटीपीएल द्वारा वांछित वृद्धि विभिन्न प्रशुल्क मदों में 50% से 138% की रेंज में है।
- एनएसआईसीटीपीएल ने वित्तीय वर्ष 2016-17, 2017-18 और 2018-19 के प्रत्येक लेखापरीक्षित वार्षिक लेखे की 4.5. प्रति भी प्रस्तुत की है।
- एनएसआईसीटीपीएल का प्रस्ताव इस प्रकार है:-4.6.

(क्र) प्रशब्क

(क) प्रश् क्र.सं.	पुरक विवरण	मौजूदा प्रशुल्क	प्रस्तावित प्रशुल्क	मौजूदा प्रशुल्क पर % वृद्धि
(1)	(2)	(3)	(4)	(10) = (4-3)/3
	प्रशुल्क मदें			
	कंटेनर प्रशुल्क (टीईयू में)			
क.	विदेशी कंटेनर			
	(1) लदे कंटेनर	₹.	₹.	
	(क) 20' कंटेनर	3,740	6,144	64%

	(ख) 20-40' कंटेनर	5,610	9,216	64%
	(ग) 40' कंटेनर से अधिक	7,057	12,288	74%
	(2) खाली कंटेनर	7,007	12,200	7.77
	(क) 20' कंटेनर	3,183	5,349	68%
	(ख) 20-40' कंटेनर	4,774	8,024	68%
	(ग) 40' कंटेनर से अधिक	5,944	10,698	80%
	(3) प्रशीतन कंटेनर		,	
	(क) 20' कंटेनर	3,740	6,144	64%
	(ख) 20-40' कंटेनर	5,610	9,216	64%
	(ग) 40' कंटेनर से अधिक	7,057	12,288	74%
	(4) जोखिमपूर्ण कंटेनर			
	(क) 20' कंटेनर	4,675	9,216	97%
	(ख) 20-40' कंटेनर	7,012	13,824	97%
	(ग) 40' कंटेनर से अधिक	8,822	18,432	109%
	(5) ओडीसी कंटेनर			
	(क) 20' कंटेनर	7,479	9,216	23%
	(ख) 20-40' कंटेनर	11,219	13,824	23%
	(ग) 40' कंटेनर से अधिक	14,115	18,432	31%
ख	विदेशी पोतांतरण कंटेनर			
	(1) लदे हुए कंटेनर			
	(क) 20' कंटेनर	1,671	3,975	138%
	(ख) 20-40' कंटेनर	2,506	5,963	138%
	(ग) 40' कंटेनर से अधिक	3,341	7,950	138%
	(2) खाली कंटेनर			
	(क) 20' कंटेनर	1,448	3,379	133%
	(ख) 20-40' कंटेनर	2,172	5,068	133%
	(ग) 40' कंटेनर से अधिक	2,896	6,758	133%
ग	अन्य (रेस्टो-विदेशी)			
	(1) लदे हुए कंटेनर			
	(क) 20' कंटेनर	8,309	15,208	83%
	(ख) 20-40' कंटेनर	12,464	22,812	83%
	(ग) 40' कंटेनर से अधिक	16,618	30,416	83%
छ	हैचकवर (संदर्भ टिप्पणी 1)			
	विदेशगामी पोत	6,231	11,405	83%
	तटीय पोत	6,231	11,405	83%
झ	प्रशीतन राजस्व- विद्युत आपूर्ति	6,656	6,656	0%
ञ	भंडारण			
	भरे	173	311	80%
	खाली	652	1,174	80%
ट	अन्य राजस्व	162	244	50%
ਠ	शट आऊट/ पुनर्नामांकन	85	155	83%
ड	आईटीआरएचओ 400 शिपिंग लाइन	65	65	0%
ढ़	आईटीआरएचओ 400 जेएनपीटी टर्मिनल	50	50	0%

(ख) राजस्व अपेक्षा 7253.13 लाख रु. प्रति वर्ष के पूर्व अतिरेक पर स्वैच्छिक समायोजन द्वारा छोड़ दिया।

- 5.1. निर्धारित परामर्शी प्रक्रिया के अनुसार, एनएसआईसीटीपीएल के 18 नवंबर 2019 के प्रस्ताव की एक प्रति को संबंधित प्रयोक्ताओं/प्रयोक्ता संगठनों को उनकी टिप्पणियों के लिए भेजा गया। एनएसआईसीटीपीएल द्वारा किये गए अनुरोध के देखते हुए कुछेक दस्तावेजों को प्रयोक्ताओं को नहीं भेजा गया क्योंकि वे संवेदनशील हैं। प्रशुल्क दिशानिर्देश 2019 के खन्ड 4.3 के अनुसार प्रयोक्ताओं को केवल फार्म नं. 1, 2, 3, 5 और प्रस्तावित दरमान परिपत्रित किये गए। पूरा प्रस्ताव (वार्षिक लेखाओं को छोड़कर) लाइसेंस प्रदात्ता पत्तन जेएनपीटी को उनकी टिप्पणियों के लिए भेजा गया।
- 5.2. किसी भी प्रयोक्ता/प्रयोक्ता संगठन ने, मामले को अंतिम रूप दिये जाने तक, अपनी टिप्पणियां नहीं भेजीं।
- 6.1. जैसी ऊपर पैरा संख्या 2.1, 2.2 और 2.3 में चर्चा की गई है, माननीय बंबई उच्च न्यायालय ने इस प्राधिकरण द्वारा वर्ष 2012 में पारित पिछले प्रशुल्क आदेश पर माननीय बम्बई उच्च न्यायलय द्वारा रोक लगा दी और एनएसआईसीटीपीएल को तत्समय प्रचलित प्रशुल्क की उगाही करने की अनुमति दे दी, जो इस प्राधिकरण द्वारा 30 दिसंबर, 2008 को पारित प्रशुल्क आदेश के अनुसार हैं। उक्त न्यायालयी आदेश अभी भी लागू है।
- 6.2. माननीय उच्च न्यायालय के आदेश को ध्यान में रखते हुए, यह महसूस किया गया कि क्या एनएसआईसीटीपीएल द्वारा अपने दरमानों की विवेचना करना, प्राधिकरण द्वारा आदेश पारित करना और एनएसआईसीटीपीएल द्वारा आदेश का कार्यान्वयन करना माननीय उच्च न्यायालय के आदेश की अवहेलना तो नहीं होगी। अत: एनएसआईसीटीपीएल को, 26 नवंबर, 2019 के पत्र के द्वारा अनुरोध किया गया कि वे एनएसआईसीटीपीएल द्वारा प्रशुल्क दिशानिर्देश 2019 के अंतर्गत अपने दरमानों के सामान्य संशोधन का प्रस्ताव दायर करने के बारे में माननीय बंबई उच्च न्यायालय को सूचित करे।
- 6.3. इस संबंध में, एनएसआईसीटीपीएल ने 13 दिसंबर, 2019 के पत्र के द्वारा एनएसआईसीटीपीएल द्वारा प्रशुल्क दिशानिर्देश 2019 के अंतर्गत अपने दरमानों के सामान्य संशोधन का प्रस्ताव प्राधिकरण के पास दायर करने की माननीय बंबई उच्च न्यायालय को दी गई सूचना की प्रति भेजी गई।
- 7. संदर्भाधीन मामले में प्राधिकरण के कार्यालय में 23 दिसंबर, 2019 को एक संयुक्त सुनवाई का आयोजन किया गया। एनएसआईसीटीपीएल ने अपने प्रस्ताव का प्रस्तुतीकरण दिया। संयुक्त सुनवाई में एनएसआईसीटीपीएल, लाइसेंस प्रदात्ता पत्तन अर्थात् जेएनपीटी और प्रयोक्ता संघों ने अपने निवेदन रखे।
- 8.1. प्रस्ताव की आरंभिक संवीक्षा के आधार पर, हमारे 27 जनवरी, 2020 के पत्र के द्वारा एनएसआईसीटीपीएल से अतिरिक्त सूचना/स्पष्टीकरण मांगा गया। एनएसआईसीटीपीएल ने 29 जनवरी 2020 के अपने पत्र और 05 फरवरी 2020, 06 फरवरी 2020 और 18 फरवरी 2020 के ई-मेल के द्वारा उत्तर दिया। मांगी गई सूचना और उस पर एनएसआईसीटीपीएल का उत्तर नीचे सारणीबद्ध किया जाता है:-

क्र.सं.	मांगी गई सूचना	एनएसआईसीटीपीएल का उत्तर
क.	सामान्य	
	जैसा हमारे 26 नवंबर, 2019 के पत्र में पहले ही अनुरोध किया गया है कि एनएसआईसीटीपीएल हमें एनएसआईसीटीपीएल और जेएनपीटी के बीच विधिवत् हस्ताक्षरित अलग करार की प्रति भेजे।	(एनएसआईसीटीपीएल ने 18 फरवरी 2020 के ई-मेल के द्वारा एनएसआईसीटीपीएल और जेएनपीटी के बीच विधिवत् हस्ताक्षरित अलग करार की प्रति भेजी।)
ख.	एआरआर परिकलन	
(i).	फार्म-1 वर्ष 2017-18 और 2018-19 के लिए प्रचालन व्यय क्रमश 36,895.20 लाख रु. और 36,768.83 लाख रु. दर्शाता है। लेकिन, संबंधित वर्षों के लेखा परीक्षित वार्षिक लेखाओं में कुल व्यय घटा वित्तीय लागत के पश्चात् वर्ष 2017-18 के लिए राशि 36894.20 लाख (36953.80- 59.60 लाख रु.) और वर्ष 2018-19 के लिए 37365.10 लाख रु.(37431.60 लाख रु 66.50 लाख रु.) निकलती है। एनएसआईसीटीपीएल वर्ष 2017-18 और 2018-19 के लेखापरीक्षित वार्षिक लेखाओं के अनुसार प्रचालन व्यय पर सुविचार करे।	सुविचारित और फार्म संख्या 1 संशोधित।
(ii).	वित्तीय लागत फार्म नं. 1 में यथासुविचारित अर्थात् वर्ष 2017-18 के लिए 58.60 लाख रु. और वर्ष 2018-19 के लिए 59.80 लाख रु. वर्ष 2017-18 और 2018-19 के लेखापरीक्षित वार्षिक लेखाओं यानी 59.60 लाख रु. और 66.50 लाख रु. से मेल नहीं खाती हैं। एनएसआईसीटीपीएल वित्तीय लागतों को वर्ष 2017-18 और 2018-19 के लेखापरीक्षित वार्षिक लेखाओं के अनुसार सुविचार में ले।	सुविचारित और फार्म संख्या 1 संशोधित।

(iii).	वर्ष 2018-19 का वार्षिक लेखा 594 लाख रु. तक का "अप्राप्य और	सुविचारित और फार्म संख्या 1 संशोधित।
	संदिग्ध ऋण" दर्शा रहा हैं। दिशानिर्देश 2019 के खंड 2.3.1 के अनुसार संदिग्ध ऋणों के लिए प्रावधान ग्राह्य लागत नहीं हैं। उक्त प्रावधान को एनएसआईसीटीपीएल द्वारा एआरआर का निर्धारण करते समय निकाला नहीं है। उसे हटाया जाना होगा।	एनएसआईसीटीपीएल ने 05 फरवरी 2020 के ई-मेल के द्वारा यह पुष्टि की है कि माल और सेवाओं के आयात पर विदेशी मुद्रा लेनदेनों पर हुआ लाभ/हानि है जैसा लेखापरीक्षित वार्षिक लेखाओं में दर्शाया गया है।
(iv).	एनएसआईसीटीपीएल ने फार्म 6क में सुविचारित प्रत्येक वर्ष के लिए ईडएएस के अंतर्गत लेखापरीक्षित वार्षिक लेखाओं में सूचित व्ययों और आईजीएएपी के अनुसार लागत विवरण में सुविचारित व्यय का समाधान विवरण प्रस्तुत नहीं किया है। एनएसआईसीटीपीएल द्वारा प्रस्तुत फार्म 6क खाली है।	वित्तीय व्ययों में कोई इंडएएस समायोजन नहीं है। स्थायी परिसंपत्तियों के मामले में, कंपनी ने 31 मार्च, 2014 को स्थायी संपितियों का अग्रेनीय मूल्य लिया हैं जो इंडएएस संक्राति लेखा मानक के उपबंधों के अनुसार वित्तीय वर्ष 2015-16 का आदि मूल्य है।
(v).	आईजीएएपी के अनुसार सकल स्थायी संपतियों के आंकड़े 31 मार्च 2019 को पूंजीगत कार्य प्रगति अधीन, फार्म नं. 1 में यथासुविचारित, एनएसआईसीटीपीएल द्वारा प्रस्तुत फार्म 7 पर आधारित प्रतीत होते हैं। फार्म नं. 7 के संबंध में एनएसआईसीटीपीएल निम्नलिखित प्रस्तुत करे:	
(क).	आस्ति की प्रत्येक श्रेणी के अंतर्गत जैसे प्लांट और मशीनरी, फर्निचर और फिक्सचर, कार्यालय उपकरण, कंप्यूटर, हार्डवेयर नेटवर्क, वाहन और अन्य कोई स्थायी आस्ति सकल स्थायी आस्तियों के आदिशेष का वर्ष 2016-17, 2017-18 और 2018-19 के लिए आईजीएएपी और इंड एएस के बीच समाधान विवरण प्रस्तुत करे।	यह नोट किया जाता कि कोई इंड एएस समायोजन नहीं किया गया है। वित्तीय वर्ष 2016-17 के लिए कंपनी ने संक्रमण की तारीख को संपत्ति और उपस्कर के संबंध में लागत छूट का लाभ प्राप्त किया है और इसलिए नेट-ब्लॉक अग्रेषित राशि के उस तारीख को सकल ब्लॉक अग्रेनित राशि सुविचार में ली है। एनएसआईसीटीपीएल द्वारा वित्त वर्ष 2016- 17 के वित्तीय व्ययों के संबंधित पृष्ठ और समाधान विवरण प्रस्तुत किया है।
(ख).	उक्त के समर्थन में गणना भी प्रस्तुत करें।	एनएसआईसीटीपीएल द्वारा इस संबंध में गणना भी प्रस्तुत की है।
(ग).	प्रत्येक आस्ति श्रेणी अर्थात प्लांट और मशीनरी, फर्निचर और फिक्सचर, कार्यालय उपकरण, कंप्यूटर, हार्डवेयर नेटवर्क, वाहन और अन्य कोई स्थायी आस्ति के मूल्यह्रास के समर्थन में वर्ष 2016-17 से 2018-19 तक के प्रत्येक वर्ष की गणना प्रस्तुत करें।	एनएसआईसीटीपीएल द्वारा इस संबंध में गणना भी प्रस्तुत की है।
(ঘ).	वर्ष 2018-19 के लिए फार्म नं. 7 में यथासुविचारित सकल स्थायी परिसंपत्ति अनुसूची के अंतर्गत दर्शायें गए निपटान तथा जमा के आंकड़े वर्ष 2018-19 के वार्षिक लेखाओं से मेल नहीं खाते हैं। एनएसआईसीटीपीएल वर्ष 2018-19 के लेखापरीक्षित वार्षिक लेखा के अनुसार आंकड़ों पर सुविचार करे।	एनएसआईसीटीपीएल ने लेखापरीक्षित लेखा के अनुसार आंकड़ों पर सुविचार किया है। प्रशुल्क प्रस्ताव का संशोधित फार्म 7 एनएसआईसीटीपीएल ने प्रस्तुत किया है।
(vi).	फार्म 3 में कार्यकारी पूंजी के संबंध में, एनएसआईसीटीपीएल स्पष्ट/पुष्टि करे कि प्रशुल्क दिशानिर्देश 2019 के खंड 2.5 के अनुसार जेएनपीटी के साथ संविदात्मक दायित्व के संबंध में इसके कोइ विविध लेनदार नहीं है।	यह पुष्टि की जाती है कि एनएसआईसीटीपीएल के प्रशुल्क दिशानिर्देश 2019 के खंड 2.5 के अनुसार जेएनपीटी के साथ संविदात्मक दायित्व के संबंध में इसके कोई विविध लेनदार नहीं है।
(vii).	प्रशुल्क दिशानिर्देश, 2019 के खंड 2.8 के अनुसार खंड 2.1 से 2.7 के अनुरूप निर्धारित एआरआर के तत्काल अनुवर्ती वर्ष के लिए सूचकांकित एआरआर निकालने के लिए प्राधिकरण द्वारा यथा संसूचित लागू थोक मूल्य सूचकांक (डब्ल्यूपीआई) के 100% पर सूचकांकित किया जाना होता है। उदाहरणार्थ, यदि वाई4 2018-19 है तो वर्ष वाई4 का सूचांकित एआरआर 3.45% के लागू डब्ल्यूपीआई के आधार पर निर्धारित किया जायेगा। इस मामले में, वाई1 2016-17 है और वाई2 2017-18 है तथा वाई3 2018-19 है और तत्काल अनुवर्ती वाई4 2019-20 है। लेकिन एआरआर के सूचकांकन के प्रयोजन से एनएसआईसीटीपीएलर ने वर्ष 2018-19 को वाई4 के रूप में सुविचार में लिया है और 3.45% का सूचकांकन कारक लगाया है न कि 2019-20 को वाई4 के रूप में लेते हुए 4.26% का सूचकांकन कारक लागू किया हैं। एनएसआईसीटीपीएल सूचकांकित एआरआर के लिए 4.26% सूचकांकन कारक लागू करने पर सुविचार करे।	एनएसआईसीटीपीएल ने प्राधिकरण को प्रस्तुत प्रस्ताव में 4.26% के सूचकांकन कारक को सुविचार में लिया है। अत: किसी संशोधन की आशोधन की आवश्यकता नहीं है।

ग.	राजस्व आकलन	
(i).	फार्म 4 में एनएसआईसीटीपीएल ने वर्ष 2016-17 से 2018-19 के यातायात के आधार पर औसत यातायात 6.43 लाख टीईयू लिया है। उसी फार्म 4 में राजस्व आकलन के लिए एनएसआईसीटीपीएल ने विभिन्न कंटेनर मिश्रण लिया है। उक्त कंटेनर मिश्रण को 6.43 लाख टीईयू के औसत यातायात से मेल खाना चाहिए और इस संबंध में गणना भी प्रस्तुत की जाए।	कंटेनर मिश्रण का योग 6.43 लाख टीईयू के औसत यातायात के साथ मेल खाता है। इस संबंध में एनएसआईसीटीपीएल ने गणना प्रस्तुत की है।
(ii).	'पत्तन क्रेन का प्रयोग करते हुए जलयान से यार्ड या इसके विपरीत' और 'यार्ड से टूक या इसके विपरीत लदे खाली, प्रशीतन जोखिमपूर्ण और ओडीसी कंटेनर, 40 फुट से अधिक के, राजस्व आकलन के लिए के समग्र प्रस्तावित प्रशुल्क फार्म 4 में सुविचारित प्रस्तावित प्रारूप दरमान के अनुसार प्रशुल्क से गेल नहीं खाता है। उदाहरण के तौर पर, 40' से अधिक के लदे सामान्य विदेशगामी पात के प्रहस्तन का 11866 रु. का प्रशुल्क के प्रस्तावित स्तर पर आय के आकलन के लिए सुविचार में लिया गया है, जबिक प्रस्तावित दरमान के समग्र प्रशुल्क में 12288 रु. प्रति कंटेनर [10600 रु.+ 1688 रु.] निकलता है। एनएसआईसीटीपीएल सभी प्रशुल्क मदों की समीक्षा करे और राजस्व आकलन को तदनुसार रीकास्ट करे।	सभी प्रशुल्क मदों की एनएसआईसीटीपीएल द्वारा समीक्षा की गई है और राजस्व आकलन को री-कास्ट किया गया है और तदनुसार संशोधित फार्म 4 एनएसआईसीटीपीएल द्वारा प्रस्तुत किया गया है।
(iii).	पोतांतरण कंटेनरों के मामले में राजस्व आकलन के लिए सुविचारित दरें प्रारूप दरमान में प्रस्तावित दर से कम हैं। एनएसआईसीटीपीएल फार्म 4 में राजस्व आकलन में अशुद्धि का सुधार करें।	फार्म 4 में कोई त्रुटि नहीं है, क्योंकि उल्लिखित पोतांतरण दर एक मूत्र के लिए (50%) है। लेकिन, दरमान में दर एक पूरे पोतांतरण चक्र के लिए 7950/- रु. है।
(iv).	कृपया पृष्टि करें कि एनएसआईसीटीपीएल ने अपने प्रस्तावित दरमान में यथा प्रस्तावित सभी प्रशुल्क मदों की आय आकलित की है। यदि नहीं तो वर्ष 2016-17, 2017-18 और 2018-19 के आधार पर उन प्रशुल्क मदों पर राजस्व का आकलन करे।	यह पृष्टि की जाती है कि प्रस्तावित दरमान में यथाप्रस्तावित सभी प्रशुल्क मदों पर विचार किया गया है।
घ.	<u>प्रस्तावित दरमान</u>	
(i).	जहां तक प्रस्तावित दरमान का संबंध है, एनएसआईसीटीपीएल निम्नलिखित स्पष्ट/प्रस्तुत करे:	
(布).	मौजूदा दरमान खंड 3.1 (ख) में सामान्य और प्रशीतन कंटेनरों के यार्ड से सीएफएस/सीएफएस से यार्ड और सीएफएस पर लिफ्ट्स 3.3 (ख) में जोखिमपूर्ण कंटेनरों के लिए खंड 3.4 (ख) में अति आयामी कार्गो कंटेनरों के लिए अलग से प्रभार निर्धारित करते हैं। प्रस्तावित दरमान में अलग से प्रभारों के स्थान पर एनएसआईसीटीपीएल ने यह कहते हुए एक उपबंध का प्रस्ताव किया है कि यार्ड से सीएफएस- परिवहन और सीएफएस पर लिफ्ट की दर यार्ड से सीएफएस/सीएफएस ये यार्ड की दूरी के आधार पर यह टर्मिनल और ग्राहक के बीच परस्पर सहमति से स्वीकार्य होगी। महापत्तन न्यास अधिनियम, 1963 की धारा 48 इस प्राधिकरण को अधिदेश देती है कि प्रदत्त सेवाओं के लिए दरों का निर्धारण करे। इसलिए, यह प्राधिकरण ऐसी टिप्पणी को अनुमोदित करने की स्थिति में नहीं है। इसलिए, ऐसी सेवा के लिए विशिष्ट दर प्रस्तावित की जाए।	उल्लिखित प्रभारों को दरमान में ड्राप करने का प्रस्ताव है। संशोधित प्रस्तावित दरमान एनएसआईसीटीपीएल ने प्रस्तुत किये हैं।
(ख).	परिणामस्वरूप, उक्त प्रस्तावित प्रशुल्क के आधार पर एनएसआईसीटीपीएल द्वारा अर्जित आय फार्म नं. 4 में प्रस्तावित दरमान पर आय का आकलन लेखबद्ध किया जाए।	
(ii). (क).	प्रस्तावित दरमान में, खंड II विविध प्रभार के अंतरण, एनएसआईसीटीपीएल ने क्रमांक (xiii) पर प्रति पोत 5000/- रु. के गैंगवे प्रभार लागू किये हैं। एनएसआईसीटीपीएल द्वारा फार्म नं. 5 में उक्त अंतर्वेशन को लेखबद्ध नहीं किया गया है। इस संबंध में, एनएसआईसीटीपीएल निम्नलिखित को स्पष्ट/प्रस्तुत करे। प्रशुल्क दिशानिर्देश 2019 के खंड 5.6.1 में दी गई अनुबद्धताओं को ध्यान में रखते हुए नई प्रस्तावित दर निकालने का आधार/गणना। एनएसआईसीटीपीएल द्वारा गैंगवे प्रभारों की उगाही के लिए दी जाने वाली प्रस्तावित सेवा के साथ नई उगाही के कारण।	उल्लिखित प्रभारों को दरमान में ड्राप करने का प्रस्ताव है। संशोधित प्रस्तावित दरमान एनएसआईसीटीपीएल ने प्रस्तुत किये हैं।

0 0 0 11	1 0	
(ग). प्रस्तावित नई उगाही के हवाले से प्रशुल	न्क के प्रस्ताावत स्तर पर आय क	
(4): 4.411.44 12 0 161 1.641.4 4 48.	TO TO POSSIBLE THE TAX AND A TOTAL TO	
। आकलन में लेखबद्ध आय की प्रमात्रा।		

8.2. जैसी ऊपर चर्चा की गई है, अतिरिक्त सूचना/स्पष्टीकरण देते समय, एनएसआईसीटीपीएल ने विभिन्न प्रशुल्क फार्मों को संशोधित किया है और संशोधित प्रारूप दरमान भी प्रस्तुत किया है। एनएसआईसीटीपीएल ने अपने 06 फरवरी 2020 के ई-मेल के द्वारा संशोधित प्रशुल्क फार्म और संशोधित प्रारूप दरमान भेजे हैं। एनएसआईसीटीपीएल द्वारा प्रस्तुत संशोधित एआरआर परिकलन की सार-स्थिति, इस प्रकार है:-

(राशि रु. में)

क्र.सं.	विवरण		वाई 1	वाई 2	(राशि रु. म् वाई 3
			2016-17	2017-18	2018-19
(1).	कुल व्यय (लेखापरीक्षित वार्षिक लेखाओं के अनुसार)	टिप्पणी 1			
(i).	प्रचालन व्यय (मूल्यह्रास सहित)		38,292.10	36,894.20	36,762.13
(ii).	वित्त और विविध व्यय (एफएमई)		56.90	59.60	66.50
	कुल व्यय 1=(i)+(ii)		38,349.00	36,953.80	36,828.63
(2).	उन मदों का समंजन जहां आईएनडीएएस (लेखापरीक्षित लेखाओं के अनुसार) और आईजीएएपी के अनुसार आंकड़ों में विचलन है।)	फार्म 6 क और टिप्पणी 2			
(i).	मूल्यह्रास		-	-	-
(ii).	व्यय की अन्य मदें, यदि कोई हों, सूचीबद्ध की जाए –प्रदत्त पट्टा किरया		-	-	-
	समायोजनों का योग 2=(i)+(ii)		-	-	-
(3).	घटाएं: समायोजन				
(i).	पत्तन को प्रदत्त वास्तविक रायल्टी/ राजस्व हिस्सा		21,855.20	20,297.50	19,752.10
(ii).	ऋणों पर ब्याज		-	-	-
(iii).	अप्राप्य और संदिग्ध ऋण का प्रावधान		-	4.00	593.95
(iv).	धीमी खपत की माल सूची का प्रावधान		-	-	-
(v)	अन्य प्रावधान, यदि कोई हो।		-	-	-
	3 का योग = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]		21,855.20	20,301.50	20,346.05
(4).	जोड़े: प्रशुल्क दिशानिर्देश 2019 के खंड 2.2 के अनुसार ग्राह्य रायल्टी/राजस्व हिस्सा	फार्म 2 तथा टिप्पणी 3	15,189.36	14,106.76	13,727.71
(5).	सभी समंजनों के पश्चात् कुल व्यय (5 = 1+2-3)		31,683.16	30,759.06	30,210.28
(6).	क्रमांक 5 का औसत व्यय = [वाई1 + वाई2 +वाई3]/3				30,884.17
(7).	पूंजीगत नियोजन				
	(i). बीओटी प्रचालक द्वारा अनुसारित वाई3 के				99,652.09
	31 मार्च अथवा वाई3 के 31 दिसंबर को सकल				
	स्थायी आस्तियां (संपत्ति,प्लांट और उपस्कर				
	(आईजीएएपी के अनुसार)				
	(ii). जमा: बीओटी प्रचालक द्वारा अनुसारित				1.81
	वाई3 के 31 मार्च अथवा वाई3 के 31 दिसंबर				
	को प्रगतिधीन पूंजीगत कार्य (लेखापरीक्षित वार्षिक लेखाओं के अनुसार)				

	(;;)	फार्म 3	
	(iii). जमा: प्रशुल्क दिशानिर्देश 2019 के खंड	फाम उ और	
	2.6 में निर्धारित मानकों के अनुसार कार्यशील	टिप्पणी 4	
	(क). माल सूची	10:1414	307.60
	(ख). विविध देनदार		-
	(ग). रोकड़		2,909.52
	(घ). (क)+(ख)+(ग) का योग		3,217.12
	, , , , , , , ,		
_	(Iv). कुल नियोजित पूंजी [(i)+(ii)+(iii)]		102,871.02
(8).	नियोजित पूंजी पर क्रमांक 7(iv) पर 16% प्रतिफल		16,459.36
(9).	वार्षिक राजस्व अपेक्षा (एआरआर) 31 मार्च और		47,343.53
	31 दिसंबर वाई3 को [(6)+ (8)]		
(10).	वाई4 के लिए लागू एआरआर में @ 100%		4.26%
	सूचकांकन उदाहरणार्थ यदि वाई4 2018-19 है		
	तो ग्राह्म डब्ल्यूपीआई 3.45% है और वाई4 के		
	लिए सूचकांकित एआरआर (9) x 1.0345)		
(4.4)	होगा। अपेक्षित अधिकतम सूचकांकित वार्षिक राजस्व		40,200,27
(11).	(एआरआर) जैसा कि उपयुक्त क्र.सं.10 में दिया		49,360.37
	गया		
(11क)	पूर्व अतिरेक का स्वैच्छिक समायोजन - (जबिक		6,865.65
	हम किसी पूर्व अतिरेक को स्वीकार नहीं करते		
	यदि ऐसा कोई अतिरेक परस्पर विचार-विमर्श से अथवा माननीय उच्च न्यायालय के निर्णय से		
	उठेगा, एआरआर की 21,759 लाख रु.		
	(7253.13 लाख रु. X 3) की हमारे द्वारा छोडी		
	गई राशि को उसके प्रति समायोजित किया		
	जायेगा।"		
(12).	उपयुक्त क्र.सं. 11 पर अपेक्षित अधिकतम	फार्म 4	42,494.72
	सूचकांकित वार्षिक राजस्व (एसओआर) के भीतर	और	
		टिप्पणी 5	
	(समामेलन के पश्चात् पिछला अधिशेष) [(11)-		
	11क)]		

9.1 एनएसआईसीटीपीएल के प्रस्ताव की संवीक्षा के आधार पर लाइसेंस प्रदात्ता पत्तन जेएनपीटी हमारे 27 जनवरी, 2020 के पत्र के द्वारा के द्वारा अनुरोध किया गया था कि वे कुछेक सूचना/स्पष्टीकरण दें। इसके पश्चात् 04 फरवरी 2020 को अनुस्मारक भी भेजा गया। जेएनपीटी ने 5 फरवरी, 2020 के ई-मेल के द्वारा उत्तर दिया। हमारे द्वारा मांगी गई सूचना और उन पर जेएनपीटी का उत्तर नीचे सारणीबद्ध किया जाता है:-

क्र.सं.	मांगी गई सूचना	जेएनपीटी का उत्तर
(i).	एनएसआईसीटीपीएल ने 18 नवंबर, 2019 के प्रशुल्क प्रस्ताव में सूचित किया है कि उन्होंने दिशानिर्देश 2019 के खंड 1.9 में अंतर्विष्ट अनुबद्धताओं के अनुसरण में अगल करार के निष्पादन के लिए 15 नवंबर, 2019 के पत्र के साथ जेएनपीटी को प्रस्तुत किया है। एनएसआईसीटीपीएल द्वारा जेएनपीटी के साथ दोनों पक्षों द्वारा विधिवत हस्ताक्षरित करार की प्रति प्रस्तुत की जाए।	दिशानिर्देश 2019 के खंड 1.9 में अंतर्विष्ट अनुबद्धताओं के अनुसार मैसर्ज एनएसआईसीटीपीएल के साथ अलग करार अभी प्रक्रियाधीन है।
(ii).	एनएसआईसीटीपीएल फार्म नं. 1 में यथा प्रस्तुत एआरआर आकलन पर टिप्प्णी दें।	
(iii).	फार्म नं.4 में एनएसआईसीटीपीएल ने वर्ष 2016-17 से 2018-19 के लिए औसत यातायात 6.43 लाख टीईयू दर्शाया है। 6.43 लाख के उक्त औसत यातायात को जेएनपीटी पुष्टि करे।	वर्ष 2016-17, 2017-18 और 2018-19 के वित्तीय वर्षों के लिए 6.43 लाख औसत टीईयू सही पाया गया है।

(iv).	एनएसआईसीटीपीएल नं.4 में यथाप्रस्तुत प्रशुल्क के प्रस्तावित स्तर	जेएनपीटी ने कोई टिप्पणी नहीं की।
	पर राजस्व आकलन के बारे में अपनी टिप्पणी प्रस्तुत करें।	
(v).	फार्म नं. 1 में एनएसआईसीटीपीएल द्वारा आकलित आईटीआरएचओ	जेएनपीटी ने कोई टिप्पणी नहीं की।
	आय पर अपनी टिप्पणी दें।	
(vi).	फार्म नं. 5 एनएसआईसीटीपीएल द्वारा प्रस्तुत तुलनात्मक विवरण	जेएनपीटी ने कोई टिप्पणी नहीं की।
` ′	पर अपनी टिप्पणी दें जिसमें उन्होंने अपने प्रस्तावित दरमान और	
	मौजूदा दरमान में परिवर्तन/संशोधनों को उजागर किया है।	
-	-	प्राधिकरण एमओएस द्वारा जारी प्रशुल्क दिशानिर्देश,
		2019 के अनुसार एनएसआईसीटीपीएल के प्रशुल्क
		निर्धारित कर सकता है।

- 9.2 सूचना भेजने समय, जैसी पूर्ववर्ती पैरा में चर्चा की गई है, जेएनपीटी ने 05 फरवरी, 2020 को अपने ई-मेल के द्वारा एनएसआईसीटीपीएल द्वारा प्रस्तावित प्रारूप दरमानों के बारे में निम्नलिखित निवेदन भी किये हैं:-
 - (i). खंड 10 एनएसआईसीटीपीएल और जेएनपीटी के बीच पोतांतरण कंटेनरों के अंतर टर्मिनल अंतरण की प्रक्रिया और प्रभार।

जेएनपीटी ने बीओटी प्रचालकों से अंतर टर्मिनल प्रहस्तन प्रभारों के संबंध में एकत्र किये जाने वाले प्रभारों को आशोधित किया है और एनएसआईसीटीपीएल के दरमानों में खंड 3.3.6 के अंतर्गत निम्नलिखित खंड का प्रस्ताव किया है:-

"जेएनपीटी और बीओटी के बीच टीपी कंटेनरों के प्रहस्तन प्रभार:

यदि एक कंटेनर जेएनपीटी द्वारा उतारा जाता है और बीओटी टर्मिलन द्वारा अपने टर्मिनल पर लादा जाता है या इसके विपरीत तो, प्रभार निम्नवत होंगे।

जेएनपीटी दरमानों के अनुसार इसी कंटेनर के लिए पोतांतरण कंटेनर प्रहस्तन प्रभारों का 50% और लिफ्ट ऑफ/लिफ्ट ऑन प्रभार जेएनपीटी द्वारा लाइन से वसल किया जाएगा।

बीओटी टर्मिनल अपने दरमानों के अनुसार पोतांतरण कंटेनर इसी कंटेनर के लिए प्रहस्तन प्रभारों का 50% वसूल करेगा और इसके अलावा अपने दरमान के अनुसार अंतर-टर्मिनल स्थानांतरण प्रभार की उगाही भी करेगा। "

इन्हें एनएसआईसीटीपीएल के दरमानों में भी अंतर्विष्ट करने की जरूरत है। जेएनपीटी ने मैसर्ज एनएसआईसीटीपीएल को इसे अंतर्विष्ट करने कि सूचना दे दी है।

- (ii). जहां तक एनएसआईसीटीपीएल द्वारा प्रस्तावित कंटेनर सर्वेक्षण रिपोर्ट/फोटो को इलैक्ट्रानिक माध्यम से भेजने के सेवा के अन्य प्रभारों का संबंध है, यह बताया जाता है कि ऐसी सेवा जेएनपीटी द्वारा प्रदान नहीं की जाती। लेकिन प्राधिकरण दिशानिर्देश के अनुसार प्रशुल्क निर्धारित कर सकता है।
- 10. इस मामले में परामर्श से संबंधी कार्यवाही इस प्राधिकरण के अभिलेख में उपलब्ध है। प्राप्त टिप्पणियों के उद्धरण और संबंधित पक्षों द्वारा दिये गए तर्क संबंधित पक्षों को बाद में भेजे जायेंगे। यह ब्यौरे हमारी वैबसाइट http://tariffauthority.gov.in. पर उपलब्ध करा दिये जायेंगे।
- 11. मामले की विवेचना के दौरान एकत्र की गई सूचना की समग्रता के संदर्भ से निम्नलिखित स्थिति उभर कर सामने आती है:-
 - (i). न्हावा शेवा इंटरनेशलन कंटेनर टर्मिनल प्राइवेट लिमिटेड (एनएसआईसीटीपीएल) के दरमान इस प्राधिकरण द्वारा पिछली बार प्रशुल्क दिशानिर्देश 2005 के अनुसार 14 फरवरी 2012 के आदेश द्वारा संशोधित किये गए थे। उक्त आदेश के अनुसार, इस प्राधिकरण ने एनएसआईसीटीपीएल के तत्समय प्रचलित प्रशुल्क में 27.85% की घटौती की थी (यानी 3 मार्च 2010 के आदेश संख्या टीएएमपी/55/2008-एनएसआईसीटीपीएल के प्रशुल्क)। प्रशुल्क में घटौती से आहत होकर एनएसआईसीटीपीएल ने 14 फरवरी 2012 के प्रशुल्क आदेश को अपनी रित याचिका संख्या 2012 कि 2954 के द्वारा माननीय बंबई उच्च न्यायालय में चुनौती दी। माननीय बंबई उच्च न्यायालय ने आदेश के प्रचालन पर रोक लगा दी और याचिकाकर्ता को, यानी एनएसआईसीटीपीएल को, पुरानी (उच्च) दरें प्रभारित करने की अनुमति दे दी। रिट याचिका अभी भी माननीय न्यायालय में लंबित है।
 - (ii) इसी बीच पोत परिवहन मंत्रालय ने, महापत्तन न्यास अधिनियम 1963 की धारा 111 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एमओएस द्वारा प्रशुल्क दिशानिर्देश 2019 जारी किये जाने के परिणामस्वरूप, एनएसआईसीटीपीएल के प्रशुल्क निर्धारण का कार्य प्रशुल्क दिशानिर्देश, 2019 और प्रशुल्क दिशानिर्देश

- 2019 को कार्यान्वित करने के लिए जारी कार्यकारी दिशानिर्देशों में अंतर्विष्ट अनुबद्धताओं द्वारा शासित होगा।
- (iii). इस पृष्ठभूमि में एनएसआईसीटीपीएल प्रशुल्क दिशानिर्देश 2019 के और प्रशुल्क दिशानिर्देश 2019 को कार्यान्वित करने के लिए जारी कार्यकारी दिशानिर्देश 2019 के अंतर्गत अपने प्रशुल्क में नवम्बर, 2019 में संशोधन का प्रस्ताव लेकर आया। एनएसआईसीटीपीएल द्वारा चाहा गया संशोधन इस प्राधिकरण के 30 दिसम्बर, 2008 के आदेश में अनुमोदित प्रशुल्क पर मांगा है, जो माननीय उच्च न्यायालय के आदेश के आधार पर एनएसआईसीटीपीएल द्वारा अभी भी उगाहे जा रहे हैं। जैसा पहले चर्चा की गयी है, एनएसआईसीटीपीएल ने प्रशुल्क दिशानिर्देश 2019 के अंतर्गत प्राधिकरण के समक्ष प्रशुल्क प्रस्ताव दायर करने की सुचना माननीय बम्बई उच्च न्यायालय को दी है।
- (iv). एनएसआईसीटीपीएल ने अपने दरमानों के सामान्य संशोधन का प्रस्ताव नवंबर, 2019 में दायर किया। तत्पश्चात्, फरवरी, 2020 में, एनएसआईसीटीपीएल ने, अतिरिक्त सूचना/स्पष्टीकरण भेजते समय, अशुद्धियों में सुधार के पश्चात् और भूलों को अंतर्विष्ट करते हुए अपना संशोधित प्रस्ताव दायर किया परंतु नवंबर 2019 के अपने मूल प्रस्ताव में वृद्धि की मात्रा में बिना कोई परिवर्तन किये। फरवरी 2020 का संशोधित प्रस्ताव और मामले की विवेचना के दौरान एनएसआईसीटीपीएल द्वारा दी गई अतिरिक्त सुचना/स्पष्टीकरण को इस विश्लेषण में सुविचार में लिया जाता है।
- (v). (क). प्रशुल्क दिशानिर्देश 2019 का खंड 2.1 प्रत्येक बीओटी प्रचालक से वार्षिक राजस्व अपेक्षा (एआरआर) के निर्धारण की अपेक्षा करता है जो प्रस्ताव के प्रस्तुत करते समय तत्काल पहले के तीन वर्षों (वाई 1), (वाई 2) और (वाई 3) के लेखापरीक्षित वार्षिक लेखाओं के अनुसार वास्त्विक व्ययों के योग की औसत है तथा यह प्रशुल्क दिशानिर्देश 2019 के और इस प्राधिकरण द्वारा जारी कार्यकारी दिशानिर्देशों के खंड 2.2, 2.3.1 और 2.3.2 में निर्धारित कुछेक उपावर्जनों के अधीन होगा जमा वाइ 3 के 31 मार्च को ली गई नियोजित पूंजी के 16% पर प्रतिफल लिया जायेगा जो एक व्यवसायरत चार्टरित लेखाकार/लागत लेखकार द्वारा विधिवत प्रमाणित हो।
 - (ख). एनएसआईसीटीपीएल ने तीन वर्षों अर्थात 2016-17 (वाई 1), 2017-18 (वाई 2), और 2018-19 (वाई 3), की कार्यरत सनदी लेखाकार द्वारा प्रमाणित वार्षिक राजस्व आवश्यकता का आकलन किया है। फार्म नं. 1 में वर्ष 2016-17 और 2017-18 के यथासुविचारित प्रचालन व्यय और वित्त तथा विविध व्यय लेखापरीक्षित वार्षिक लेखाओं के अनुसार प्रतीत होता है। लेकिन, वर्ष 2018-19 के संबंध में, प्रचालन व्यय से संबंधित आंकड़े (36,762.13 लाख रु.) वर्ष 2018-19 के लेखापरीक्षित वार्षिक लेखाओं के अनुसार प्रतीत नहीं होते। वर्ष 2018-19 के लिए प्रचालन व्यय के आंकड़ों (37,365.10 लाख रु.) को लेखापरीक्षित वार्षिक लेखे के अनुसार सुविचार में लिया गया है।
 - (ग). एनएसआईसीटीपीएल ने वार्षिक राजस्व आवश्यकता का आकलन करते समय वार्षिक राजस्व आवश्यकता में प्रशुल्क दिशा-निर्देश, 2019 के खंड 2.3.2 निर्धारण के अनुसार उन कुछ मदों में समायोजन किया है जिनमें आईएनडीएएस (लेखापरीक्षित लेखाओं के अनुसार) भारत में सामान्यत: प्रचलित लेखा सिद्धांतों के अनुसार बताए गए आंकड़ों में भिन्नता है। इस संबंध में एनएसआईसीटीपीएल ने स्पष्ट किया है कि वित्तों में इंड एएस समायोजन नहीं है। स्थायी आस्तियों के मामले में, एनएसआईसीटीपीएल ने इंड एएस ट्रांजीशन लेखांकन मानकों के अनुसार स्थायी आस्तियों का अग्रेनित मूल्य लिया है। उक्त के आधार पर और चूंकि फार्म 1 (जिसमें उक्त समायोजन लेखबद्ध किए जाने की जरूरत है) को सनदी लेखाकार द्वारा प्रमाणित किया गया है एनएसआईसीटीपीएल द्वारा संसूचित स्थित पर भरोसा किया जाता है।
 - (घ). प्रशुल्क दिशा-निर्देश 2019 के खंड 2.2 और 2.3.1 में यथा निर्धारित के अनुसार एनएसआईसीटीपीएल ने एआरआर के परिकलन में शामिल नहीं किए गए निम्नलिखित व्ययों को प्रशुल्क दिशा-निर्देश 2019 के खंड 2.2 और 2.3.1 के अनुसार शामिल नहीं किया है। उक्त समायोजनों का विशेष उल्लेख किया जा रहा है:

- (i). प्रशुल्क दिशानिर्देश, 2019 का खंड 2(2) अन्य बातों के साथ, अनुबद्ध करता है कि उन मामलों में जहां बोली प्रक्रिया 29 जुलाई, 2003 से पूर्व पूरी हो गई थी एआरआर परिकलन, बीओटी प्रचालक द्वारा भू-स्वामी पत्तन को देय रायल्टी/राजस्व हिस्से को अगले उच्च बोलीकर्ता की सीमा तक हिसाब में लिया जाएगा।
 - एनएसआईसीटीपीएल एक बीओटी प्रचालक है, जो जुलाई, 2003 से पूर्व की श्रेणी में आता है। अत: एनएसआईसीटीपीएल के मामले में लाइसेंस प्रदाता पत्तन जेएनपीटी को प्रदत्त रायल्टी अगले उच्चतम बोलीकर्ता की सीमा तक लागत की मद के रूप में ग्राह्य है। तद्नुसार वर्ष 2016-17 से 2018-19 के वर्षों के लिए लेखापरीक्षित वार्षिक लेखाओं में दर्शायी गई रायल्टी के 69.50% को एआरआर परिकलन में एनएसआईसीटीपीएल ने सुविचार में लिया है जो प्रशुल्क दिशानिर्देश, 2019 के खंड 2.2 के अनुरूप है। इसी प्रकार इसे तब भी लिया गया था जब प्रशुल्क दिशानिर्देश, 2005 के अंतर्गत एनएसआईसीटीपीएल के प्रशुल्क निर्धारित किए जा रहे थे।
 - संदर्भाधीन मामले की संक्रिया के दौरान, एनएसआईसीटीपीएल ने एक पंचाट अवार्ड का उल्लेख किया है, जिसमें अन्य बातों के साथ-साथ, यह निर्णय दिया गया है कि प्रति टीईयू रायल्टी को राजस्व हिस्से में परिवर्तित करने की जरूरत है और कि जेएनपीटी को लाइसेंस करार संशोधित करने का निदेश दिया गया है। यद्यपि एनएसआईसीटीपीएल और जेएनपीटी के बीच लाइसेंस करार संशोधित नहीं किया गया बताया गया है, यह कहना असामयिक होगा कि एनएसआईसीटीपीएल द्वारा पूरा ब्योरा उपलब्ध न कराये जाने के अभाव में उस अवार्ड से एनएसआईसीटीपीएल के एआरआर परिकलन में सुविचारित रायल्टी की राशि पर कोई प्रभाव पड़ेगा।
- (ii). प्रशुल्क दिशानिर्देश 2019 के खंड 2.3.1 (ii) के अनुसार एनएसआईसीटीपीएल ने ऋणों पर ब्याज, अप्राप्य और संदिग्ध उधारों के लिए प्रावधान, कम खपत वाली माल सूची और स्पैयर्स के लिए प्रावधान आदि भी अपवर्जित किये हैं जिनको क्रमश: वर्ष 2017-18, 2018-19 के लेखापरीक्षित वार्षिक लेखाओं में दर्शाया गया है। एनएसआईसीटीपीएल के वर्ष 2016-17 के लेखापरीक्षित वार्षिक लेखाओं में दर्शाया न गया है।
- (iii). एनएसआईसीटीपीएल के लेखापरीक्षित वार्षिक लेखाओं में "वित्तीय लागतें" अनुसूची में वर्ष 2017-18 और 2018-19 के लिए क्रमश: 1.00 लाख रु और 6.70 लाख रु. "बैंक ओवरड्राफ्ट पर ब्याज" दर्शाती है। एनएसआईसीटीपीएल ने इस राशि को फार्म सं. 1 में अपवर्जित नहीं किया है। चूंकि बैंक ओवरड्राफ्ट पर ब्याज ब्याज लागत की किस्म का होता है, एआरआर निकालने के लिए प्रशुल्क दिशानिर्देश 2019 के खंड 2.3.1(ii) के अनुसार उक्त राशि को कुल ब्यय में से अपवर्जित किया जाता है।
- (iv). प्रशुल्क दिशा-निर्देश 2019 के खंड 2.2, 2.3.1 और 2.3.2 में उल्लिखित प्रावधानों का पालन करते हुये और ऊपर उल्लेख किए गए लागू किए गए समायोजनों के आधार पर वर्ष 2016-17 से 2018-19 के लिए एनएसआईसीटीपीएल द्वारा आंकलित 308.84 लाख रुपए के औसत व्यय के स्थान पर 310.83 करोड रुपए के औसत व्यय कि गणना की गयी है।
- (vi). (क). प्रशुल्क दिशा-निर्देश 2019 के खंड 2.5 में उल्लिखित अनुबद्धता के आधार पर एनएसआईसीटीपीएल ने नियोजित पूंजी की गणना की है। नियोजित पूंजी में आईजीएएपी के अनुसार गणना की गयी सकल स्थायी परिसंपत्तियों के साथ 31 मार्च 2019 तक जारी पूंजीगत कार्य शामिल है। एनएसआईसीटीपीएल ने सनदी लेखाकार द्वारा विधिवत प्रमाणित आईजीएएपी के अंतर्गत सकल स्थायी परिसंपत्तियों की तुलना में आई जीएएपी के अनुसार सकल निर्धारित परिसंपत्तियों की गणना प्रस्तुत की है। वर्ष 2018-19 के लेखापरीक्षित वार्षिक लेखाओं के आधार पर जारी पूंजीगत कार्यों पर विचार किया गया है। एनएसआईसीटीपीएल द्वारा विचार की गयी 996.52 करोड रुपए

- की सकल स्थायी परिसंपत्तियों और 31 मार्च 2019 तक के 1.81 लाख रुपए के जारी पूंजीगत कार्यों को विश्लेषण में लिया गया है।
- (ख). प्रशुल्क दिशा-निर्देश 2019 के खंड 2.6 में कार्यशील पूंजी के निर्धारण के मानदंड अनुबद्ध है। कार्यशील पूंजी में प्रशुल्क दिशा-निर्देश 2019 के खंड 2.6 के अनुसार मालसूची, विविध देनदार और भुगतान शेष शामिल है। अतिरिक्त पूंजी की सूची की सीमा एक वर्ष का औसत उपभोग होगा और सूची की अन्य मदों के मामले में यह सीमा ईंधन को छोड़ कर भंडारों के छह माह का औसत उपयोग होगा। नकदी शेष की सीमा एक माह का नकद व्यय होगा करारगत बाध्यताओं के कारण से स्वामी पत्तन को देय राजस्व हिस्सेदारी/रॉयल्टी के अग्रिम भुगतान और पट्टा किराया/अनुज्ञप्ति शुल्क को विविध देनदार माना जाएगा।
- (ग). एनएसआईसीटीपीएल ने ईधन और कार्यार्थी स्पेयर्स को छोड़कर 3.08 करोड़ रु तक की माल सूची पर सुविचार किया है, जो 6 महीने के औसत उपभोग के लिए प्रतीत होती है जैसा वर्ष 2018-19 के लेखापरीक्षित वार्षिक लेखाओं में दर्शाया गया है (यानी 6.15 करोड़ रु/ 2=3.08 करोड़ रुपए) इसे विश्लेषण में सुविचार में लिया जाता है।
- (घ) एनएसआईसीटीपीएल ने फार्म नं. 1 में कार्यशील पूंजी के एक भाग के रूप में विविध देनदारों के प्रति किसी राशि पर सुविचार नहीं किया है। इस संबंध में एनएसआईसीटीपीएल ने पुष्टि की है कि यथा प्रशुल्क दिशानिर्देश, 2019 के खंड 2.5 के अंतर्गत यथापेक्षित जेएनपीटी के साथ करारगत बाध्यताओं को देखते हुए उनके कोई विविध देनदार नहीं है।
- (ङ). एनएसआईसीटीपीएल द्वारा यथानिर्धारित रोकड़ शेष को वर्ष 2018-19 के लेखापरीक्षित वार्षिक लेखाओं के अनुसार उस वर्ष के लिए प्रचालन व्यय में हल्का सा संशोधन किया जाता है, जैसी पहले चर्चा की गई है।
- (च). उपरोक्त के आधार पर, कार्यशील पूंजी एनएसआईसीटीपीएल द्वारा सुविचारित 32.17 करोड़ रुपए के प्रति 32.67 करोड़ रुपये बनती है।
- (छ). इस प्रकार, उपरोक्त के आधार पर कार्यशील पूंजी सहित कुल नियोजित पूंजी एनएसआईसीटीपीएल द्वारा यथानिर्धारित 1028.71 करोड़ रु. के प्रति 1029.21 करोड़ रु. निकलती है।
- (vii). प्रशुल्क दिशा-निर्देश 2019 के खंड 2.7 के अनुसार, संशोधित नियोजित पूंजी पर 16% की दर से नियोजित पूंजी पर प्रतिफल की गणना की जाती है जिसकी गणना 164.67 करोड रुपए है जिसे वार्षिक राजस्व आवश्यकता (एआरआर) के परिकलन में माना गया है।
- (viii). एआरआर में तीन वित्त वर्षों 2016-17 से 2018-19 के व्यय के औसत के साथ 16% आर ओ सी ई शामिल है। एनएसआईसीटीपीएल द्वारा आंकलित 473.40 करोड़ रुपए की ए आर आर के स्थान पर 475.50 करोड़ रुपए के एआरआर की गणना की गयी है।

इसके अतिरिक, प्रशुल्क दिशा-निर्देश 2019 के खंड 2.8 के अनुसार वर्ष 2019-20 के लिए लागू डब्लूपीआई की 100% की दर से उक्त ए आर आर को सूचकांकित किया जाता है जो कि 4.26% है। एनएसआईसीटीपीएल द्वारा आकलित सूचकांकित ए आर आर 493.60 करोड़ रुपए के स्थान पर 495.75 करोड़ रुपए (475.50 करोड़ रुपए * 1.0426) के एआरआर की गणना की सीमा को सूचकांकित किया गया है। विस्तृत एआरआर की गणना **अनुलग्नक-I** के रूप में संलग्न है।

सूचकांकित एआरआर की सीमा का सार नीचे दिया गया है:

(करोड़ रु. में)

क्र.सं.	विवरण	एआरआर का परिकलन		
		एनएसआईसीटीपी एल द्वारा प्रस्तुत किए अनुसार	हमारे द्वारा विचार किए अनुसार	
1	औसत व्यय (वाई1+ वाई 2 + वाई 3)/3	308.84	310.83	
2	31.03.2019 तक जारी पूंजीगत कार्य सहित 31.03.2019	1028.71	1029.21	

	तक नियोजित पूंजी और मानदंडों के अनुसार कार्यशील पूंजी		
3	नियोजित पूंजी पर 16% की दर से प्रतिफल	164.60	164.67
4	31 मार्च 2019 तक एआरआर (4=1+3)	473.44	475.50
5	वर्ष 2019-20 में लागू डब्ल्पीआई की 100% की दर से एआरआर में सूचकांकन (4.26%)	493.60	495.75
6	अधिकतम सूचांकंकित वार्षिक राजस्व आवश्यकता (एआरआर)	493.60	495.75

ऊपर क्रम संख्या 6 में निर्धारण के अनुसार ए आर आर में अधिकतम सूचकांकन के आधार पर एनएसआईसीटीपीएल ने प्रशुल्क दिशनिर्देश 2019 के खंड 2.9 के अनुसार प्रस्तावित दरमान की गणना की है।

- (ix). (क). प्रशुल्क दिशा-निर्देश 2019 के खंड 2.10 के अनुसार, दरमान प्राप्त करने के लिए बीओटी प्रचालक द्वारा वर्ष वाई 1, वाई 2, वाई 3 के दौरान वास्तविक प्रहस्तित व्यापार के औसत पर विचार किया जाएगा जो संबन्धित पत्तन द्वारा विधिवत प्रमाणित होगा। एनएसआईसीटीपीएल ने वर्ष 2016-17 से 2018-19 के लिए औसत यातायात 6,43,448 टीईयू माना है। लाईसेंस प्रदाता पत्तन जेएनपीटी ने अपनी प्रक्रिया में माने गए औसत यातायात की पृष्टि की है।
 - (ख). प्रशुल्क दिशा-निर्देश 2019 के खंड 2.11.1 के अनुसार, बीओटी प्रचालक को व्यावसायिक निर्णय के आधार पर बाजार की स्थितियों के अनुसार दरों के निर्धारण और किसी कार्यरत सनदी लेखाकार द्वारा विधिवत प्रमाणित अधिकतम सूचकांकित एआरआर दरमान निर्धारित करने की छूट है। ऐसा लगता है कि एनएसआईसीटीपीएल ने प्रस्तावित दरमान का निर्धारण करते समय जी एनएसआईसीटीपीएल द्वारा वसूल किए जा रहे मौजूदा प्रशुल्क में 0% से 138% वृद्धि का प्रस्ताव किया है।

एनएसआईसीटीपीएल ने एनएसआईसीटीपीएल द्वारा प्रशुल्क दिशा-निर्देश 2019 के खंड 2.11.1 के अनुसार यथा अपेक्षित वर्ष 2016-17 से 2018-19 के औसत यातायात के सदृश प्रस्तावित दरमान में प्रत्येक प्रशुल्क मद को दर्शाते हुये राजस्व अनुमान की विस्तृत प्रक्रिया दी है। सनदी लेखाकार ने एनएसआईसीटीपीएल द्वारा यथा आकलित उक्त राजस्व अनुमान को प्रमाणित किया है।

एनएसआईसीटीपीएल द्वारा यथानिर्धारित प्रशुल्क के प्रस्तावित स्तर पर राजस्व आकलन 424.95 करोड़ रु. है जो 495.75 करोड़ रु के अधिकतम सूचकांकित वार्षिक राजस्व अपेक्षा (एआरआर) से कम है, जैसा पहले चर्चा की गई है। इस प्रकार, 70.80 करोड़ रु. का अंतर रह गया है जिसे एनएसआईसीटीपीएल द्वारा अनकवर छोड़ दिया गया है।

- (x). मौजूदा सोपाधिकता और उन सोपाधिकताओं जिनमें एनएसआईसीटीपीएल ने मौजूदा सोपाधिकताओं में संशोधन/विलोपन का प्रस्ताव किया है अथवा नए प्रावधान लागू करने का प्रस्ताव किया है उनका तुलनात्मक विवरण एनएसआईसीटीपीएल द्वारा संशोधन प्रस्ताव के लिए दी गयी टिप्पणियों/कारणों के साथ उन पर जेएनपीटी की टिप्पणियों के साथ प्रस्तावित संशोधनों को स्वीकार करने अथवा अस्वीकार करने की अनुशंसा के लिए दिये गए कारणों के साथ अनुलग्नक-II के रूप में संलग्न है। एनएसआईसीटीपीएल और जेएनपीटी द्वारा दी गयी टिप्पणियों पर विचार करते हुये अनुमोदित मौजूदा सोपाधिकताओं में प्रस्तावित संशोधन/विलोपन और उन पर हमारी टिप्पणियाँ/विश्लेषण उक्त अनुलग्नक-II में दिए गए हैं।
- (xi). मौजूदा दरमान खंड 3.1 (ख) में सामान्य और प्रशीतन कंटेनरों के यार्ड से सीएफएस/सीएफएस से यार्ड और सीएफएस पर लिफ्ट्स 3.3 (ख) में जोखिमपूर्ण कंटेनरों के लिए खंड 3.4 (ख) में अति आयामी कार्गों कंटेनरों के लिए अलग से प्रभार निर्धारित करते हैं। प्रस्तावित दरमान में एनएसआईसीटीपीएल ने यार्ड से सीएफएस/सीएफएस से यार्ड को ऊपर सभी भागों के अंतर्गत कंटेनर मूवमेंट प्रभारों को विलुप्त करने का प्रस्ताव किया है। इस संबंध में एनएसआईसीटीपीएल के निर्णय पर भरोसा किया जाता है।
- (xii). इस प्राधिकरण ने 24 जुलाई, 2019 के आदेश संख्या टीएएमपी/46/2015- एमयूसी के द्वारा सभी महापत्तन न्यासों और उनमें परिचालित बीओटी प्रचालकों दर डीएमआईसीडीसी के संभरण डाटा बैंक

(एलडीबी) के लिए संशोधित अनिवार्य प्रयोक्ता प्रभार (एमयूसी) अनुमोदित किये हैं। इसलिए, इस प्राधिकरण द्वारा अनुमोदित सभी महापत्तन न्यासों और उनमें परिचालित बीओटी टर्मिनलों द्वारा कॉमन अडाप्शन के लिए दो वर्ष की अवधि हेतु डीएमआईसीडीसी द्वारा प्रदत्त संभरण डाटा बैंक सेवा के लिए संशोधित एमयूसी लागू होता है जो एनएसआईसीटीपीएल के मामले में भी लागू है। इस संबंध में एनएसआईसीटीपीएल द्वारा यथाप्रस्तावित टिप्पणी में हल्का सा संशोधन किया गया है तािक एमयूसी आगामी 2 वर्षों के लिए लागू है दर्शाया जा सके।

- (xiii). प्रशुल्क दिशानिर्देश, 2019 के खंड 1.9 में यथा अनुबद्ध अनुसार, एनएसआईसीटीपीएल और लाइसेंस प्रदाता पत्तन जेएनपीटी को प्रशुल्क दिशानिर्देश, 2019 का पालन के लिए अलग से करार करना है। एनएसआईसीटीपीएल और जेएनपीटी ने पृष्टि की है कि अलग से करार प्रक्रियाधीन है। एनएसआईसीटीपीएल और जेएनपीटी को सलाह दी जाती है कि वे अतिशीघ्र अलग से करार करें और करार करने के तत्काल पश्चात् उसकी एक प्रति प्राधिकरण को भेंजे।
- (xiv). (क). हमारे द्वारा एनएसआईसीटीपीएल के संशोधित दरमान पर विचार करने से पहले यहाँ पर प्रशुल्क दिशा-निर्देश, 2019 के खंड 3.1.1 का संदर्भ लेना आवश्यक है जिसमें यह अनुबद्ध है कि उन बी ओ टी प्रचालकों के मामले में जिनके प्रशुल्क की इस प्राधिकरण द्वारा पारित प्रशुल्क आदेशों पर उच्च न्यायालयों में लंबित वादों के कारण से समीक्षा नहीं की गयी है उनमें वाद अवधि के दौरान यदि कोई अधिशेष/हानि अनुमेय लागत और अनुमेय प्रतिफल के अतिरिक्त होती है तो वह या तो संबन्धित न्यायालयों के आदेशों या पोत परिवहन मंत्रालयों, संबन्धित महापत्तन न्यास, संबन्धित बीओटी प्रचालक और इस प्राधिकरण द्वारा सामूहिक रूप से लिए गए निर्णय के अनुसार होंगे।
 - (ख). प्रशुल्क दिशा-निर्देश, 2019 के खंड 3.1.1 में अनुबद्ध के अनुसार और पिछली अवधि के अधिशेष उपयोग पर सीआईटीपीएल, सीएचपीटी का एक बीओटी प्रचालक और पीएसए एसआईसीएएल (वी ओ चिदंबरनार पत्तन न्यास में एक बीओटी प्रचालक) द्वारा वांछित स्पष्टीकरण/सूचना के आधार पर उन बीओटी प्रचालकों के संबंध में जिन्होंने विभिन्न उच्च न्यायालयों में वाद दायर किए है और इस प्राधिकरण द्वारा पारित पिछले प्रशुल्क आदेश को लागू करने पर स्थगन प्राप्त कर लिया था उनके संबंध में वाद अवधि के दौरान पिछली अवधि के अधिशेष/हानि, अतिरिक्त लागत और अनुमेय प्रतिफल के उपयोग पर निर्णय करने के लिए एक प्रारूप नीति की रूपरेखा बनाई और उसे पोत परिवहन मंत्रालय को हमारे पत्र संख्या टीएएमपी/61/2018-मिस. दिनांक 26 अप्रैल 2019 को पोत परिवहन मंत्रालय के साथ संबन्धित बीओटी प्रचालकों, संबन्धित प्रमुख पत्तन न्यासों और इस प्राधिकरण को विचार विमर्श करने के लिए अग्रेषित किया गया था। पोत परिवहन मंत्रालय को दिनांक 23 जुलाई 2019 और दिनांक 18 नवम्बर 2019 को स्मरण पत्र प्रेषित किए गए थे। पोत परिवहन मंत्रालय का उत्तर प्रतीक्षित है।
- (xv). वाद अवधि के दौरान प्रोद्भूत होने वाले पिछली अवधि के अधिशेष के किसी भी समायोजन को प्रभावी किए बिना प्रशुल्क के अनुमानित स्तर पर प्राप्त होने वाली आय को, जैसा कि पूर्ववर्ती पैराग्राफों में चर्चा की गयी है, एनएसआईसीटीपीएल द्वारा वसूल कि जा रही अर्थात न्यायालय से अनुमत मौजूदा दर स्तर में वृद्धि/कमी का प्रस्ताव करके 495.75 करोड़ रुपए के एआरआर स्तर में रखी गयी है। उक्त अनुमानित आय के कारण से कोई अंतर नहीं हुआ। यदि 495.75 करोड़ रुपए के एआरआर में अधिशेष का समायोजन किया जाता है तो इससे एनएसआईसीटीपीएल द्वारा मांगी गयी वृद्धि की प्रमात्रा में और कमी आएगी और मौजूदा प्रशुल्क स्तर अर्थात न्यायालय द्वारा अनुमत प्रशुल्क में कमी करनी होगी।

लेकिन इस संबंध में यह बताया जाता है कि एन एनएसआईसीटीपीएल के मामले में माननीय बंबई उच्च न्यायालय ने 2012 की रिट याचिका संख्या 2954 का निपटान करते हुए कोई आदेश प्राप्त नहीं हुआ है जिससे अतिरेक/घाटे के बारे में मार्ग प्रशस्त हो सके, और बाद की अवधि के दौरान ग्राह्य लागतों और अनुमत प्रतिफल के पर होने वाले अतिरेक/(घाटे) के विवेचन के बारे में न ही हमने एमओएस से अभी कोई निर्णय प्राप्त हुआ है। दूसरे शब्दों में, बाद की अवधि के दौरान न तो अतिरेक निर्धारण की प्रणाली के अभाव में और अतिरेक के निपटान के विवेचन के अभाव में, यह प्राधिकरण अभी इस संबंध में कोई समायोजन करने की स्थिति में नहीं है।

(xvi). जैसी पहले चर्चा की गई है, एनएसआईसीटीपीएल ने बताया है कि वह किसी पूर्व अतिरेक को स्वीकार नहीं करते, इसने स्वेच्छा से 68.68 करोड़ रु. प्रति वर्ष कुल मिलाकर पिछले तीन वर्षों की अवधि के 206 करोड़ रु. का पूर्वावधि अतिरेक का समायोजन किया है।

जैसी पहले चर्चा की गई है कि अतिरेक/घाटे के विवेचन बताने के लिए न तो माननीय बंबई उच्च न्यायालय ने एनएसआईसीटीपीएल द्वारा दायर रिट याचिका का निपटान किया है जिससे अतिरेक/घाटे के बारे में मार्ग प्रशस्त किया है और न ही एमओएस से कोई नीति प्राप्त हुई है। इन आधारों पर अन्य बीओटी प्रचालकों के, जिनके प्रशुल्क प्रशुल्क दिशानिर्देश, 2019 में अंतर्विष्ट अनुबद्धताओं के आधार पर हाल ही में निर्धारित किए गए हैं, और जहां मामले उच्च न्यायालयों में लंबित हैं, अर्थात् चेन्नई इंटरनेशनल कंटेनर टर्मिनल प्राइवेट लिमिटे (सीआईटीपीएन) और गेटवे टर्मिनल इंडिया प्राइवेट लिमिटेड (जीटीआईपीएल) वाद की अविध के दौरान पूर्व अतिरेक का कोई समायोजन नहीं किया गया है।

लेकिन, एनएसआईसीटीपीएल का मामला, सीआईटीपीएल और जीटीआईपीएल के मामलों की तुलना में अन्य मामला है जहां प्रस्तावित प्रशुल्क स्तर पर सूचकांकित अधिकतम एआरआर और आकलित आय में कोई अंतर छोड़ा नहीं गया है। एलएसआईसीटीपीएल के मामले में प्रशुल्क के प्रस्तावित स्तर पर अधिकतम सूचकांकित एआरआर और आकलित आय में 70.80 करोड़ रु. का अंतर है। दूसरे शब्दों में, यदि अधिकतम सूचकांकित एआरआर में से 70.80 करोड़ रु. को पूर्वाविध अतिरेक का समायोजन कर भी दिया जाए एनएसआईसीटीपीएल तब भी प्रस्तावित संवर्धित दरों की उगाही जारी रख सकता है।

इस प्रकार, इस प्राधिकरण ने माननीय वंबई उच्च न्यायालय द्वारा अतिरेक/घाटे के व्यवहार संबंधी 2012 की रिट याचिका संख्या 2954 के निपटान पर या एमओएस से बाद की अविध के दौरान ग्राह्म लागतों और अनुमत प्रतिफल से अधिक अतिरेक/(घाटा) के व्यवहार के संबंध में निर्णय आने पर, जो भी पहले हो, 70.80 करोड़ रु. प्रति वर्ष की राशि, 3 वर्ष के लिए कुल मिलाकर 212.40 करोड़ रु. अलग रखने का निर्णय लिया है। दूसरे शब्दों में, 70.80 करोड़ रु प्रति वर्ष तक की पूर्वाविध अतिरेक राशि, वर्तमान विवेचन में 3 वर्ष तक की अविध के लिए समायोजित की गई समझी जाएगी और भविष्य में 70.80 करोड़ रु. प्रति वर्ष से अधिक के अतिरेक पर ही सुविचार किया जाएगा।

- (xvii). एनएसआईसीटीपीएल का प्रस्ताव इस प्राधिकरण के समक्ष निपटान के लिये दायर किया गया है। चूंकि प्रस्ताव एक "प्रशुल्क मामले" के रूप में प्राप्त हुआ है और इसी रूप में पंजीकृत हुआ है, इसलिये इसे अनिश्चित काल तक लिम्बत नहीं रखा जा सकता है वास्तव में, और मामले की स्थितियों को देखते हुए, जैसी ऊपर चर्चा की गई है, यह प्राधिकरण एनएसआईसीटीपीएल के प्रस्ताव का अनुमोदन करता है और ऊपर की गई चर्चा के अनुसार एनएसआईसीटीपीएल द्वारा यथाप्रस्तावित प्रशुल्क में वृद्धि की अनुमित देता है।
 - एनएसआईसीटीपीएल को यह सूचित किया जाता है कि जब माननीय बम्बई उच्च न्यायालय 2012 की रिट याचिका संख्या 2954 का निपटान करते हुए आदेश पारित करेगा जिससे अतिरेक/घाटे के संव्यवहार का मार्ग प्रशस्त होगा अथवा वाद की अवधि के दौरान ग्राह्य लागतों और अनुज्ञेय प्रतिलाभ से अधिक अतिरेक/(घाटे) के संव्यवहार पर एमओएस से निर्णय प्राप्त होने पर, जो भी पहले हो, एनएसआईसीटीपीएल के अब अनुमोदित प्रशुल्क तब समीक्षा के अधीन होंगे ताकि वाद अवधि के दौरान हुए अतिरेक के प्रभाव को लेखबद्ध किया जा सके।
- (xviii). यहां यह उल्लेख करना समीचीन होगा कि हमने अपने 24 जुलाई 2015 के पत्र संख्या टीएएमपी/46/2015-विविध के द्वारा एनएसआईसीटीपीएल को यह संसूचित किया था कि चुनौती दिये गए प्रशुल्क आदेश से तत्काल पहले के प्रशुल्क चक्र के लिए अतिरेक का प्रमाणीकरण और एनएसआईसीटीपीएल द्वारा माननीय उच्च न्यायालय में चुनौती दिये गए उक्त प्रशुल्क आदेश में निर्धारित प्रशुल्क की पोत परिवहन मंत्रालय (एमओएस) के 12 जून, 2015 के पत्र 14019/20/2009-पीजी के आधार पर समीक्षा की जायेगी जो माननीय उच्च न्यायालय की अनुमित के अधीन होगी, क्योंकि मामला न्यायाधीन है। तदनुसार, हमने अगस्त, 2015 में माननीय न्यायालय के समक्ष एक शपथ-पत्र दायर किया है जिसमें अन्य बातों के साथ-साथ माननीय न्यायालय के समक्ष यह प्रार्थना की गई है कि उन्हें भारत के महान्यायवादी की राय को प्रभाव देने के लिए जनवरी 2012 के आदेश की समीक्षा करने की अनुमित इस प्राधिकरण को दी जाए। वह मामला अभी भी माननीय न्यायालय में लंबित पड़ा है। माननीय उच्च न्यायालय से अनुमित की प्राप्ति तक एमओएस के पत्र के आधार पर अतिरेक/(घाटे) को परिमाण करने की एक कार्रवाई की गई है।
- (xix). प्रशुल्क दिशानिर्देश 2019 के खंड 2.12 के अनुसार, दरमानों को संबंधित वर्ष के 1 जनवरी से 31 दिसंबर, के बीच होने वाले थोक मूल्य सूचकांक (डब्ल्यूपीआई) में भारत सरकार द्वारा घोषित विचलन के 60% की सीमा तक मुद्रास्फीति के प्रति वार्षिक सूचकांकित किया जायेगा। ऐसे समंजन दरमान संगत वर्ष के 1 मई से लागू होंगे और आगामी वर्ष की 30 अप्रैल तक प्रभावी रहेंगे। यहां यह उल्लेख करना समीचीन होगा कि इस मामले में वर्ष 2019-20 में सूचकांकन को ए आर आर में और दरमान निकालने के लिये पहले ही सुविचार में ले लिया गया है। ऐसी स्थिति में, इस प्रभाव की एक टिप्पणी दरमानों में अंतर्विष्ट की जाती है कि इस

प्राधिकरण द्वारा अनुमोदित दरमान, इस प्राधिकरण द्वारा घोषित दिये जाने वाले डब्ल्यूपीआई के 60% तक स्वत: वार्षिक सूचकांकन के अधीन हैं। वार्षिक सूचकांकन 01 मई 2020 से होगा। एनएसआईसीटीपीएल द्वारा सूचकांकित दरमान जेएनपीटी, प्रयोक्ताओं और इस प्राधिकरण को सूचित किया जायेगा।

- 12.1. परिणाम में और ऊपर बताये गए कारणों तथा सामूहिक विचार-विमर्श के आधार पर यह प्राधिकरण दरमानों और एनएसआईसीटीपीएल की सोपाधिकताओं का अनुमोदन करता है।
- 12.2. एनएसआईसीटीपीएल के संशोधित दरमान और सोपाधिकताएं इस प्राधिकरण द्वारा पारित आदेश की भारत के राजपत्र में अधिसूचना की तारीख से 30 दिन पश्चात् से लागू होंगे। एक बार संशोधित दरमान प्रभावी हो जाने के पश्चात् ये तीन वष्र तक प्रभावी रहेंगे और वार्षिक सूचकांकन के अधीन होंगे। दरमानों को दिया गया अनुमोदन उसके पश्चात् स्वतः ही व्यपगत हो जायेगा जब तक कि इस प्राधिकरण द्वारा उनका विस्तार नहीं कर दिया जाता।
- 12.3. एनएसआईसीटीपीएल के प्रशुल्क दी गई सूचना के आधार पर और अभियोग की अविध से संबंधित पूर्वाविध अतिरेक का समायोजन किये बिना निर्धारित किये गए हैं। इसलिए जब माननीय बम्बई उच्च न्यायालय 2012 की रिट याचिका संख्या 2954 का निपटान करते हुए आदेश पारित करेगा जिससे अतिरेक/घाटे के संव्यवहार का मार्ग प्रशस्त होगा अथवा अभियोग की अविध के दौरान ग्राह्म लागतों और अनुज्ञेय प्रतिलाभ से अधिक अतिरेक/(घाटे) के संव्यवहार पर एमओएस से निर्णय प्राप्त होने पर, जो भी पहले हो, एनएसआईसीटीपीएल के अब अनुमोदित प्रशुल्क तब समीक्षा के अधीन होंगे तािक अभियोग अविध के दौरान एनएसआईसीटीपीएल को अर्जित हुए अतिरेक के प्रभाव को लेखबद्ध किया जा सके। जैसा प्रशुल्क दिशानिर्देश 2019 के खंड 3.1.1. में अनुबद्ध है।
- 12.4. जैसा प्रशुल्क दिशानिर्देश 2019 के खंड **7** में अनुबद्ध है एनएसआईसीटीपीएल इस प्राधिकरण को प्रहस्तित कंटेनर यातायात, क्रेनों का प्रति घंटा औसत मूव तथा कंटेनरों के औसत ठहराव समय संबंधी वार्षिक रिपोर्ट प्रस्तुत करेगा। एनएसआईसीटीपीएल को वार्षिक रिपोर्ट प्रत्येक वर्ष की समाप्ति के 90 दिन के भीतर प्रस्तुत करनी होंगी। समय-समय पर इस प्राधिकरण द्वारा अपेक्षित अन्य कोई सूचना भी एनएसआईसीटीपीएल द्वारा प्रस्तुत की जायेगी।
- 12.5. विचलनों का विश्लेषण प्रशुल्क वैधता अविध के अंत में एनएसआईसीटीपीएल के प्रशुल्क के आगामी सामान्य समीक्षा के समय किया जायेगा और अतिरिक्त अतिरेक का समंजन अगले चक्र के लिए निर्धारित किये जाने वाले प्रशुल्क निर्धारण के समय किया जायेगा जैसा प्रशुल्क दिशानिर्देश 2019 को खंड 3.2.1 और 3.2.2 में अनुबद्ध है।

टी.एस. बालसुब्रमनियन, सदस्य (वित्त)

[विज्ञापन- III/4/असा. /06/2020]

अनुलग्नक - I

				(लाख रु. में)
क्र.सं.	विवरण	2016-17	2017-18	2018-19
(1).	कुल व्यय (लेखापरीक्षित वार्षिक लेखाओं के अनुसार)	 टिप्पणी 1		
(i).	प्रचालन व्यय (मूल्यहास सहित)	38,292.10	36,894.20	37,365.10
(ii).	वित्त एवं विविध व्यय (एफएमई)	56.90	59.60	66.50
	कुल व्यय 1=(i)+(ii)	38,349.00	36,953.80	37,431.60
(2).	उन मदों का समंजन जहां आईएनडीएएस (लेखापरीक्षित लेखाओं के अनुसार) और आईजीएएपी के आंकडों में भिन्नता पाई जाती है।	फार्म 6 क और टिप्प	<u> </u> णी2	
(i).	मूल्यहास 🗆	-	-	-
(ii).	व्यय की अन्य मदे, यदि कोई है, सूचीबद्ध की जाए। 🛘	-	-	-
	समायोजनों का योग 2=(i)+(ii)	-	-	-
(3).	घटाएं समायोजन:			
(i).	पत्तन को प्रदत्त वास्तविक रॉयल्टी/राजस्व हिस्सा□	1,855.20	20,297.50	9,752.10

(ii).	ऋणों पर ब्याज□		-	1.00	6.70
(iii).	अप्राप्य और संदिग्ध ऋणों के लिए प्रावधान⊟		-		593.95
(iv).	कम खपत वाली मालसूची के लिये प्रावधान		-	4.00	-
(v).	अन्य प्रावधान, यदि कोई हो।		_	_	_
(-7-	3 का योग = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]		21,855.20	20,302.50	20,352.75
			21,000.20	20,002.00	20,002.70
(4).	जोडें: ग्राह्य रॉयल्टी/राजस्व हिस्सा, प्रशुल्क दिशानिर्देश 2019 के खंड 2.2 के अनुसार	फार्म 2 तथा टिप्पणी 3	15,189.36	14,106.76	13,727.71
(5).	सभी समायोजनों के पश्चात् कुल व्यय (5 = 1+2-3+4)		31,683.16	30,758.06	30,806.56
(6).	क्रमांक 5 का औसत व्यय = [वाई1 + वाई2 + वाई3] / 3□		31,082.59		
(7).	 नियोजित पूंजी				
	(i). 31 मार्च 2019 को सकल स्थायी आस्तियां (संपत्ति, प्लांट और उपस्कर) प्रचालक द्वारा अपनाया गया हो।(आईजीएएपी को अनुसार)	जो बीओटी	99,652.09		
	(ii). जोडे:31 मार्च 2019 को प्रगति अधीन कार्य के बीओटी प्रचालक द्वारा हो। (लेखापरीक्षित वार्षिक लेखाओं के अनुसार	अपनाया गया	1.81		
	(iii). जोड़े: कार्यशील पूंजी प्रशुल्क दिशानिर्देश 2019 के खंड 2.6 में निर्धारित प्रतिमानों के अनुसार		फार्म 3 और टिप्पर्ण	14	
	(क). माल सूची		307.60	ı	
	(ख). विविध देनदार		-		
	(ग). रोकड़		2,959.77		
	(घ). (क)+(ख)+(ग) का जोड़		3,267.37		
	(iv). कुल नियोजित पूंजी [(i)+(ii)-(iii)]		1,02,921.27		
(8).	नियोजित पूंजी पर 16% प्रतिलाभ क्रमांक 7(iv)		16,467.40	(
(9).	वार्षिक राजस्व अपेक्षा (एआरआर) 31 मार्च 2019 को [(6)+ (8)]		47,550.00	1	
(10).	वर्ष 2019-20 के लिए डब्ल्यूपीआई का एआरआर में सूचकांकित @ 100% 1.0426)	[(9) x	4.26%		
(11).	अपेक्षित अधिकतम सूचकांकित वार्षिक राजस्व (एआरआर) जैसा कि उपयुक्त दिया गया	 क.सं.10 में	49,575.63	,	
(12).	उपयुक्त क्र.सं. 11 पर अपेक्षित अधिकतम सूचकांकित वार्षिक राजस्व (एसओआर) के भीतर अनुमानित प्रस्तावित सूचकांकित एआरआर (समामेलन के पश्चात् पिछला अधिशेष) [(11)-11क)]	फार्म 4 और टिप्पणी 5	42,494.72		

मौजदा दरमान और सोपाधिकताओं की प्रस्तावित दरमान और सोपाधिकताओं तलना

	मार्जूरा परमार्ग जार सामाध्यमताजा मग्र प्रसामित परमार्ग जार सामाध्यमताजा पुराना							
क्र.सं.	मौजूदा दरर	नान	प्रस्तावित दरमान□		सोपाधिकताओं में संशोधन के लिए एनएसआईसीटीपीएल द्वारा दिये गए कारण/स्पष्टीकरण	लाहसेंस प्रदात पत्तन जेएनपीटी की टिप्पणियां	विश्लेषण	
	अनुसूची संख्या	अनुसूची संख्या	अनुसूची संख्या	प्रशुल्क और सोपाधिकताएं				
1	प्रस्तावना	यह दरमान न्हावा शेवा इंटरनेशनल कंटेनर टर्मिनल लिमिटेड पर प्रदत्त सेवाओं और सुविधाओं	प्रस्तावना	यह दरमान न्हावा शेवा इंटरनेशनल कंटेनर टर्मिनल लिमिटेड पर प्रदत्त सेवाओं और सुविधाओं	_	-	चूंकि संशोधित दरमान और सोपाधिकताएं इस प्राधिकरण द्वारा पारित किये जाने	

		के उपयोग के लिए		के उपयोग के लिए			वाले आदेश की
		न्हावा शेवा इंटरनेशनल कंटेनर		जनवरी 2020 से			अधिसूचना की
		्र इटरनशनल कटनर टर्मिनल लिमिटेड को		न्हावा शेवा इंटरनेशनल कंटेनर			तारीख से 30 दिन की समाप्ति के पश्चात्
		देय प्रभारों का		टर्मिनल लिमिटेड को			त्तमात के पश्चाप् लागू होंगी, इस खंड
		निर्धारण करता है।		देय प्रभारों का			को जनवरी से प्रभावी
				निर्धारण से करता है।			शब्दों को विलुप्त कर
							आशोधित किया जाता है।
2	1.2	"तटीय पोत" का	1.2	"तटीय पोत" का	_	_	_{ह।} उक्त परिभाषा को
-		अर्थ सक्षम प्राधिकारी		अर्थ सक्षम प्राधिकारी			एमओएस के 11
		द्वारा जारी वैध तटीय		द्वारा जारी वैध तटीय			नवंबर, 2014 के पत्र
		लाइसेंस वाला भारत में किसी पत्तन अथवा		लाइसेंस वाला भारत में किसी पत्तन अथवा			में अंतर्विष्ट स्थिति
		स्थान से भारत में		स्थान से भारत में			तथा 28 नवंबर
		किसी पत्तन अथवा		किसी पत्तन अथवा			2014 के आदेश संख्या
		स्थान से भारत में किसी अन्य पत्तन		स्थान से भारत में किसी अन्य पत्तन			संख्या टीएएमपी/52/2014-
		अथवा स्थान के बीच		अथवा स्थान के बीच			सामान्य के अनुसार
		व्यापार में विषेश रूप		व्यापार में विषेश रूप से लगाया गया पोत			आशोधित किया जाता
		से लगाया गया पोत होगा।		संलगाया गया पात होगा।			है, जो इस प्रकार है।
							"तटीय पोत" का अर्थ
							महानिदेशक, पोत
							परिवहन /सक्षम प्राधिकारी द्वारा जारी
							वैध तटीय लाइसेंस
							वाला भारत में किसी
							एक पत्तन अथवा स्थान से भारत में
							किसी अन्य पत्तन
							अथवा स्थान के बीच व्यापार में अन्य रूप
							व्यापार म अन्य रूप से लगाया गया पोत
							होगा।
3	2.1	भाग 1,2,3,4,5,6,7,8	2.1	2.1 दरमानों में	प्रशुल्क दिशानिर्देश 2019 के खंड 2.12	-	इस खंड को प्रशुल्क दिशानिर्देश,2019 के
		ा,ट,उ,4,उ,७,7,७ (सिवा मद संख्या (ii)		प्रस्तावित प्रशुल्क में संबंधित वर्ष के 1	के अनुरूप		खंड 2.12 की स्थिति
		और (iii)), 9 और		जनवरी से 31			को दर्शाने के लिए
		भाग 10 की मद		दिसंबर, के बीच होने			हल्का सा आशोधित
		संख्या (ii) और (iii)		वाले परिवर्तन पर			कर दिया गया है। आशोधित खंड इस
		1.1.2011 से 3.86%		भारत सरकार द्वारा			जाशा।वत खड इस प्रकार है:-
		उपरि संशोधन के		घोषित थोक मूल्य सूचकांक में विचलन			" इस प्राधिकरण द्वारा
		अधीन होंगी।		के 60% द्वारा वृद्धि			अनुमोदित दरमान
				हो जायेगी। ऐसा			इस प्राधिकरण द्वारा
				समायोजित दरमान			घोषित किये जाने वाले थेक मूल्यी
				संबंधित वर्ष की 1 मई को लागू होकर			सूचकांक (डब्यूदरम
				्रका लागू हाकर आगामी वर्ष की 30			पीआई) के 60% तक
				अप्रेल तक लागू रहेगा।			स्वात: वार्षिक
				ऐसी पहली वृद्धि 1			सूचकांकन के अधीन
				मई 2020 से प्रभावी			होंगे। वार्षिक
	İ			होगा और अंतिम 1			सूचकांकन 1 मई
				· ·			
				मई 2021 को वार्षिक			2020 से होगा। सचकांकित दरमानों
				वृद्धि लागू करने के			सूचकांकित दरमानों की सूचना
				वृद्धि लागू करने के पश्चात् व्यक्तिक			सूचकांकित दरमानों की सूचना एनएसआईटीपीएल
				वृद्धि लागू करने के			सूचकांकित दरमानों की सूचना एनएसआईटीपीएल द्वारा जेएनपीटी,
				वृद्धि लागू करने के पश्चात् व्यक्तिक प्रशुल्क मदों को पैसे के			सूचकांकित दरमानों की सूचना एनएसआईटीपीएल

4	2.6	अमेरिकी डॉलर रूप	2.6	अमेरिकी डॉलर रूप	प्रशुल्क दिशानिर्देश	_	प्रस्तावित आशोधन
'		में मूल्यवर्गित कंटेनर		में मूल्यवर्गित कंटेनर	ु 2019 के खंड 5.5.1.		प्रशुल्क दिशानिर्देश
		संबंधित प्रभार		संबंधित प्रभार	के अनुरूप		2019 के खंड 5.5.1
		समकक्ष भारतीय		समकक्ष भारतीय	<i>भाजनुरूप</i>		
		रुपयों में वसूल किए		रुपयों में वसूल किए			के अनुरूप है। अत:
		जाएंगे। इस प्रयोजन		जाएंगे। इस प्रयोजन			प्रस्तावित आशोधित
		के लिए, भारतीय		के लिए, भारतीय			्टिप्पणी अनुमोदित
		*		· ·			है।
		रिज़र्व बैंक, भारतीय		रिज़र्व बैंक, भारतीय			
		स्टेट बैंक द्वारा		स्टेट बैंक द्वारा			
		अधिसूचित बाज़ार		अधिसूचित बाज़ार			
		खरीद दर पत्तन		खरीद दर पत्तन			
		सीमाओं में पोत के		सीमाओं में पोत के			
		प्रवेश (आयात कंटेनरों		प्रवेश (आयात कंटेनरों			
		के मामले में) की		के मामले में) की			
		तारीख को और		तारीख को और			
		टर्मिनल परिसर में		टर्मिनल परिसर में			
		कंटेनरों के आगमन		कंटेनरों के आगमन			
		(निर्यात कंटेनरों के		(निर्यात कंटेनरों के			
		्र मामले में) की तारीख		्र मामले में) की तारीख			
				को प्रचलित समय-			
		को प्रचलित समय-					
		समय पर विनिर्दिष्ट		समय पर विनिर्दिष्ट			
		की जा सकती है,		की जा सकती है,			
		डॉलर मूल्यवर्गित		डॉलर मूल्यवर्गित			
		प्रभारों को भारतीय		प्रभारों को भारतीय			
		रूपयों में बदलने के		रूपयों में बदलने के			
		लिए लागू किया जा		लिए लागू किया जा			
		सकता है।		सकता है।			
5	2.8 (ii)	दंडात्मक ब्याज की दर	2.8 (ii)	दंडात्मक ब्याज की दर			प्रस्तावित आशोधन
		14.25 प्रतिशत		15 प्रतिशत वार्षिक	2019 के खंड 5.4.7		प्रशुल्क दिशानिर्देश
		वार्षिक होगी। चुनी		होगी। चुनी गई	के अनुरूप		2019 के खंड 5.4.1
		गई दंडात्मक दर		दंडात्मक दर			के अनुरूप है। अत:
		एनएसआईसीटी और		एनएसआईसीटी और			प्रस्तावित आशोधित
		पत्तन प्रयोक्ताओं		पत्तन प्रयोक्ताओं			टिप्पणी अनुमोदित
		दोनों पर समान रूप		दोनों पर समान रूप			है।
	.— 0	में लागू होगी। जोखिमपूर्ण कंटेनरों के	.— 0	में लागू होगी। जोखिमपूर्ण कंटेनरों के	कार्यकारी दिशानिर्देश		 जोखिमपूर्ण कंटेनर
6	भाग 3		भाग 3	**		-	जााखमपूर्ण कटनर प्रहस्तन प्रभार
		प्रभार 1.25 गुणा		प्रभार 1.5 गुणा	2019 के खंड 9.9.3		्रवस्तान क्रमार सामान्य कंटेनर से
		होंगे।		होंगे।	के अनुरूप		1.5 गुणा प्रभार
							v v
							कार्यकारी दिशानिर्देश
							2019 के खंड 9.9.3
							के अनुरूप हैं। अत:
							जोखिमपूर्ण कंटेनर
							प्रहस्तन के प्रस्तावित प्रभार असमोदिन कैं।
	.— .	अति आयामी कंटेनर	1	अति आयामी कंटेनर	कार्यकारी दिशानिर्देश		प्रभार अनुमोदित हैं। अति आयामी कंटेनर
7	भाग 4		भाग 4				आत आयामा कटनर कंटेनर प्रहस्तन प्रभार
		प्रहस्तन प्रभार 2		प्रहस्तन प्रभार 1.5	2019 के खंड 9.9.3 		कटनर प्रहस्तन प्रमार सामान्य कंटेनर से
		गुणा होंगे।		गुणा होंगे।	के अनुरूप		्रामाप्य कटार स 1.5 गुणा प्रभार
							ा.ठ गुणा त्रमार कार्यकारी दिशानिर्देश
							2019 के खंड 9.9.3
							के अनुरूप हैं। अत:
							अति आयामी कंटेनर
							प्रहस्तन के प्रस्तावित
				1012.0 2			प्रभार अनुमोदित हैं।
8	भाग 7,	_	भाग 7	40' से अधिक और	_	_	कार्यकारी दिशानिर्देश
	भाग 8		फर्नीचर,	45' तक की लंबाई के			के खंड 9.5 के
	और भाग		भाग 8	कंटेनर प्रहस्तन प्रभार			अनुसार 40' से अधिक
	11		टिप्पणी	लागू प्रभारों का			के लंबाई के कंटेनरों के
			5 और	200% होगा।			प्रहस्तन प्रभार
			9 आ र भाग 11				सामान्य 20' कंटेनर
			#14 FT		1	I	

			टिप्पणी 7				प्रभारों के 2 गुना
			भाग 11				होंगे। चूंकि प्रस्तावित
			टिप्पणी 7				पाद टिप्प्ण उक्त
							अनुबद्धता के अनुरूप
							है अत: अनुमोदित है। लेकिन प्रस्तावित
							टिप्पणी को हल्का से
							आशोधित किया जाता
							है। अत: 40' से अधिक
							और 45′ तक की
							लंबाई के प्रहस्तन
							प्रभार 20' एफसीएल
							और एमटी कंटैनरों को
							लागू प्रभारों का
		C :.		C :,	· · · · · · · · · · · · · · · · · · ·	, ,,	200% होंगे।
9	भाग 10	क. यदि कंटेनर	भाग 10	क. यदि कंटेनर	पोतांतरण कंटेनरों के	जेएनपीटी ने	जेएनपीटी द्वारा
		जेएनपीटी द्वारा उतारा जाता है और		जेएनपीटी द्वारा उतारा जाता है और	लिए	प्रभारों में आशोधन का प्रस्ताव किया	प्रस्तावित आशोधन में उपबंध जेएनपीटी
		एनएसआईसीटी द्वारा		एनएसआईसीटी द्वारा		्रका प्रस्ताय क्या है जो बीओटी	म उपबंध जएनपाटा दरमानों में लिफ्ट
		अपने टर्मिनल पर		अपने टर्मिनल पर		्रिचालक से	ऑफ/लिफ्ट ऑफ
		लादा जाता है, प्रभार		लादा जाता है, प्रभार		पोतांतरण कंटेनरों	प्रभारों की उगाही की
		निम्नवत् होंगे:-		निम्नवत् होंगे:-		के अंतर टर्मिनल	अमेरा का उनाहा का अपेक्षा रखता है।
		(i) जेएनपीटी दरमान		(i) जेएनपीटी दरमान		प्रहस्तन के लिए	जेएनपीटी द्वारा
		के अनुसार पोतांतरण		के अनुसार पोतांतरण		एकत्र किये जायेंगे	प्रस्तावित दरमान में
		कंटेनर प्रहस्तन प्रभारों		कंटेनर प्रहस्तन प्रभारों		और जेएनपीटी	सामान्य संशोधन
		का 50 प्रतिशत		का 50 प्रतिशत		द्वारा निम्नलिखित	प्रस्ताव के एक भाग
		जेएनपीटी द्वारा		जेएनपीटी द्वारा		खंडों का प्रस्ताव	के रूप में लिफ्ट
		लाइन से वसूल किया		लाइन से वसूल किया		किया है:-	ऑफ/लिफ्ट ऑफ सेवा
		जाएगा।		जाएगा।			के लिए अलग से को
		(ii) उसी कंटेनर के		(ii) उसी कंटेनर के		"जेएनपीटी और	दरें निर्धारित नहीं
		लिए एनएसआईसीटी		लिए एनएसआईसीटी		बीओटी टर्मिनल के	पाई गई हैं। दरों के
		अपने दरमान के		अपने दरमान के		बीच पोतांतरण	अभाव में, जेएनपीटी
		अनुसार पोतांतरण		अनुसार पोतांतरण		कंटेनर प्रहस्तन प्रभार:	द्वारा यथा आशोधित
		कंटेनर प्रहस्तन प्रभारों		कंटेनर प्रहस्तन प्रभारों		्रयार. यदि कोई कंटेनर	प्रस्ताव स्वीकार नहीं
		का 50 प्रतिशत वसूल		का 50 प्रतिशत वसूल		जेएनपीटी द्वारा	किया जाता। एनएसआईसीटीपीएल
		करेगा और इसके		करेगा और इसके		उतारा जाता है	्रारा यथा प्रस्तावित द्वारा यथा प्रस्तावित
		अलावा, अंतर टर्मिनल		अलावा, अंतर टर्मिनल		और बीओटी	्रारा पद्मा प्रस्तापित मौजूदा उपबंध
		स्थानांतरण के लिए रू		स्थानांतरण के लिए		टर्मिनल द्वारा	एनएसआईसीटीपीएल
		1684.87 (20 के		रू. 1807.13 (20 के		लादा जाता है या	के दरमान में जारी
		लिए) अथवा		लिए) अथवा		इसके विपरीत,	रहेंगे।
		रू. 2527.33 (40 के		रू. 2710.71 (40 के		प्रभार इस प्रकार	
		लिए) का प्रभार भी		लिए) का प्रभार भी		होंगे:-	
		वसलू करेगा।		वसलू करेगा।			
	1					पोतांतरण कंटेनर	
		ख. यदि कंटेनर		ख. यदि कंटेनर		प्रहस्तन प्रभार का	
		एनएसआईसीटी द्वारा		एनएसआईसीटी द्वारा		50% और लिफ्ट	
		उतारा जाता है और		उतारा जाता है और		ऑफ/लिफ्टऑफ	
		जेएनपीटी द्वारा अपने		जेएनपीटी द्वारा अपने		प्रभार जेएनपीटी दरमानों के	
		टर्मिनल पर लादा जाता है प्रभार		टर्मिनल पर लादा जाता है प्रभार		५२माना - क अनुसार उसी	
		जाता ह प्रभार निम्नवत् होंगे:-		जाता ह प्रभार निम्नवत् होंगे:-		कंटेनर के लिए	
		(i) एनएसआईसीटी		(i) एनएसआईसीटी		जेएनपीटी द्वारा	
		अपने दरमान के		अपने दरमान के		लाइन को प्रभारित	
		अनुसार लाइन से		अनुसार लाइन से		होंगे।	
		पोतांतरण कंटेनर		पोतांतरण कंटेनर			
		प्रहस्तन प्रभारों का		प्रहस्तन प्रभारों का		बीओटी दरमानों	
		50 प्रतिशत वसूल		50 प्रतिशत वसूल		के अनुसार	
		करेगा।		करेगा।		पोतांतरण कंटेनर	
		(ii) उसी कंटेनर के		(ii) उसी कंटेनर के		प्रहस्तन प्रभार का	
		लिए, जेएनटीपी टीपी		लिए, जेएनटीपी टीपी		50% प्रभारित	
		प्रहस्तन प्रभारों का		प्रहस्तन प्रभारों का		करेगा, इसके	
	<u> </u>	प्रहस्तम प्रमारा का		प्रहस्तम प्रमारा की			

50 प्रतिशत वसूल करेगा और सके अलावा, अपने दरमान के अनुसार अंतर टर्मिनल स्थानांतरण	50 प्रतिशत वसूल करेगा और सके अलावा, अपने दरमान के अनुसार अंतर टर्मिनल स्थानांतरण	अतिरिक्त दरमाने के अनुसार अंत टर्मिनल अंतरण प्रभार भी लाग् करेगा।	र T
टर्मिनल स्थानांतरण प्रभार भी वसूल करेगा।	टर्मिनल स्थानांतरण प्रभार भी वसूल करेगा।		

TARIFF AUTHORITY FOR MAJOR PORTS

NOTIFICATION

Mumbai, the 9th March, 2020

No. TAMP/56/2019-NSICTPL.—In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Nhava Sheva International Container Terminal Private Limited (NSICTPL) for General Revision of its Scale of Rates under Tariff Guidelines, 2019. Considering the time involved for notifying the (Speaking) Order along with the Scale of Rates approved by this Authority, this Authority decided to notify only the revised Scale of Rates immediately. Accordingly, the Scale of Rates approved by this Authority on 20 February 2020 was notified in the Gazette of India on 03 March 2020 vide Gazette No. 99. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order disposing of the proposal of the NSICTPL for general revision of its Scale of Rates as in the Order appended hereto.

TARIFF AUTHORITY FOR MAJOR PORTS

Case No. TAMP/56/2019-NSICTPL

Nhava Sheva International Container Terminal Private Limited

Applicant

OUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 20th day of February 2020)

This case relates to the proposal received from Nhava Sheva International Container Terminal Private Limited (NSICTPL), a BOT Operator at Jawaharlal Nehru Port Trust (JNPT), vide its letter No. CEO/NSICT/011/2019 dated 18 November 2019 for general revision of its Scale of Rates under Tariff Guidelines, 2019.

- 2.1. This Authority *vide* its Order No. TAMP/54/2011- NSICTPL dated 14 February 2012 had revised the SOR of the NSICTPL based on the proposal then filed by NSICTPL following 2005 Tariff Guidelines. The said order was notified in the Gazette of India on 1 March 2012 vide Gazette No. 55. Vide the said Order, this Authority had effected an across the board reduction of 27.85% over the then prevailing tariff of NSICTPL. The then revised Scale of Rates and conditionalities of the NSICTPL were to come into effect after expiry of 15 days from the date of notification of the said Order in the Gazette of India and was to be in force till 31 December 2014.
- 2.2. Aggrieved by the said Tariff Order, the NSICTPL approached the Hon'ble High Court of Bombay challenging the tariff order dated 14 February 2012 by its Writ Petition No.2954 of 2012. The Hon'ble High Court has stayed the tariff Order dated 14 February 2012 and has allowed the NSICTPL to levy the tariff as approved vide earlier tariff Order dated 30 December 2008 vide its Order dated 2 July 2012. The Order of the High Court is still in force and the NSICTPL continues to levy the tariff as approved under tariff Order dated 30 December 2008.
- 3. The Ministry of Shipping (MOS), in exercise of powers conferred on it by Section 111 of the Major Port Trusts Act, 1963, has vide its letter No.PR-14019/20/2009- PG (Pt-IV) dated 5 March 2019 issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Tariff Guidelines. The Tariff Guidelines, 2019, has been notified in the Gazette of India on 7 March 2019 *vide* Gazette No.92. Thereafter, as

per Clause 1.7 of the Tariff Guidelines, 2019, Working Guidelines to operationalize the Tariff Guidelines, 2019, has been notified in the Gazette of India on 11 July 2019, vide Gazette No.244.

- 4.1. In this backdrop, the NSICTPL has filed its proposal dated 18 November 2019 for general revision of its SOR, following Tariff Guidelines, 2019. The main submissions made by NSICTPL are given below:
 - (i). NSICTPL has carefully gone through the Tariff Guidelines, 2019 and have prepared the proposal for fixation of tariff in accordance with said guidelines, in the formats and along with supporting documents as prescribed in the Working Guidelines.
 - (ii). NSICTPL intends to file an application before the Bombay High Court in W.P. No. 2954 of 2012 with respect to the same. The proposal is without prejudice to our rights and contentions including in W.P. No. 2954 of 2012 and nothing contained herein shall be deemed to be a waiver of the same.
 - (iii). NSICTPL has submitted to JNPT, a letter dated 15 November 2019 for execution of Separate Agreement as per clause 1.9 of the Tariff Guidelines 2019.
 - [Subsequently, the NSICTPL *vide* its letter dated 18 February 2020 has made available a copy of separate agreement executed between NSICTPL and JNPT.]
 - (iv). Since the information provided in the various Forms as well as in the Audited Accounts is confidential, it is requested not to circulate or publish the said information or documents to the general public or various stakeholders/ trade bodies.
- 4.2. The Highlights of the proposal are as follows:
 - (i) Annual Revenue Requirement (ARR) has been computed in accordance with Clause 2.1 of the Tariff Guidelines, 2019 at INR 47,540 lakhs on 31 March 2019.
 - (ii). Since bidding process of NSICTPL was finalised before 29 July 2003, the tariff computation will take into account royalty / revenue share as cost subject to maximum of the amount quoted by the next highest bidder for tariff fixation, *i.e.* 69.50% of the actual royalty paid. By an award dated 18 September, 2019 ("Award"), an Arbitration Tribunal has, inter alia, held that the Royalty per TEU needs to be converted to a Revenue Share and JNPT is directed to amend the License Agreement accordingly in consultation with NSICTPL within four months from the date of the award (*i.e.* on or before 18 January 2020). Till date, an amended License Agreement is not in place. It is clarified that the proposal is submitted without prejudice to the Award and NSICTPL reserves its rights in this regard. Any further developments in this regard will be informed to TAMP.
 - (iii). NSICTPL's Financial Statements are IND AS compliant. The relevant IND AS adjustments have been excluded and instead depreciation or other adjustments as per IGAAP have been included for computation of ARR in accordance with Clause 2.3.2.
 - (iv). The ARR so computed has been indexed by 4.26% as per escalation factor announced by TAMP for FY 2019-2020. Indexed ARR has been computed at INR 49,566 lakh. Normal handling, storage and ancillary charges are proposed at lesser AAR at ₹ 42,312 lakhs.
 - (v). NSICTPL has challenged the TAMP order dated 14 February 2012 in W.P. No. 2954 of 2012 and the order has been stayed by the Bombay High Court. Clause 3.1.1 of the Tariff Guidelines, 2019 provides that, "The Scale of Rates of some of the BOT operators have not been reviewed due to litigations pending in the High Courts on the Tariff Orders passed by TAMP. The surplus / deficit over and above the admissible costs and permissible returns, if any, arising during the period of litigation will be subject to the orders of the respective Courts. Alternatively, MoS, concerned Major Port Trusts, concerned BOT operators and TAMP may decide on the treatment of the past period surplus arising during the period of litigation."

While we do not admit to any past surplus, in the current application, we have foregone an amount of $\stackrel{?}{\stackrel{?}{\stackrel{?}{$\sim}}}$ 1,253 lakh per annum aggregating to $\stackrel{?}{\stackrel{?}{\stackrel{?}{\stackrel{?}{$\sim}}}}$ 21,759 lakh for a period of three years, without prejudice to NSICTPL's rights. Depending on the mutual decision pursuant to

- discussions in keeping with the clause above, the ARR foregone by NSICTPL in the current application should be adjusted against any past surplus, if so determined.
- (vi). As regards Coastal tariff, the tariff has been aligned at 60% of normal handling charges for Foreign Containers in accordance with Policy Directions of Government, Ministry of Shipping and Clause 8.3 of Working Guidelines 2019 with reference to Tariff Guidelines, 2019.
- (vii). The tariff proposed in the attached SOR will be indexed by 60% of Wholesale Price Index as announced by the Government of India. Such revisions will be first made on 1 May 2020 and subsequently on 1 May 2021.
- (viii). Tariff for Hazardous and Over Dimensions cargo has been proposed at a premium of 50% on Handling and Storage Charges in accordance with Clause 9.9.3.
- (ix). Exchange Rate of ₹ 70/- per US\$ has been used for calculating US Dollar denominated revenue.
- (x). The application currently does not consider the replacement of 6 Nos. Quay Cranes and 15 Nos. RTGs which are required under the License Agreement. Delivery of the equipment is expected by May 2020 and the equipment is expected to be put into operation by July 2020. Prior to commissioning, NSICTPL reserves the right to approach TAMP, as this change may have a material impact on NSICTPL's tariff computation of surplus and ARR adjustment against past surplus.
- 4.3. The NSICTPL has furnished detailed computation of Annual Revenue Requirement (ARR) under Form-1 and Revenue estimation at the proposed rate in Form-4. A summary position of ARR computation furnished by NSICTPL is tabulated below:

(₹. in lakhs)

Sl. No.	Description		Y1 2016-17	Y2 2017-18	Y3 2018-19
(1).	Total Expenditure	Note 1			
	(As per Audited Annual Accounts)				
(i).	Operating expenses (including depreciation)		38,292.10	36,895.20	36,768.83
(ii).	Finance and Miscellaneous expenses (FME)		56.90	58.60	59.80
	Total Expenditure 1=(i)+(ii)		38,349.00	36,953.80	36,828.63
(2).	Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP	Form 6 A and Note 2			
(i).	Depreciation		-	-	-
(ii).	Other expenditure items, if any, to be listed - Lease rent paid		-	-	-
	Total of Adjustments 2=(i)+(ii)		-	-	-
(3).	Less Adjustments:				
(i).	Actual Royalty / Revenue share paid to port		21,855.20	20,297.50	19,752.10
(ii).	Interest on loans		-	1.00	6.70
(iii).	Provision for bad and doubtful debts		-	4.00	-
(iv).	Provision for slow moving inventory		-	-	-
(v)	Other provisions, if any		-	-	-
	Total of $3 = [3(i)+3(ii)+3(ii)+3(iv)+3(v)]$		21,855.20	20,302.50	19,758.80
(4).	Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019	Form 2 and Note 3	15,189.36	14,106.76	13,727.71
(5).	Total Expenditure after Total Adjustments (5 = 1+2+3)		31,683.16	30,758.06	30,797.54
(6).	Average Expenses of SI. No.5 = [Y1 + Y2 + Y3] / 3				31,079.59

(7).	Capital Employed		
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT		99,661.12
	operator (As per IGAAP) (ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)		1.81
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019	As per Form 3 & Note 4	
	(a). Inventory		307.60
	(b). Sundry Debtors		-
	(c). Cash		2,909.47
	(d). Sum of (a)+(b)+(c)		3,217.07
	(iv). Total Capital Employed [(i)+(ii)-(iii)]		1,02,880.00
(8).	Return on Capital Employed 16% on SI. No.7(iv)		16,460.80
(9).	Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]		47,540.39
(10).	Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2018-19, then the applicable WPI is 3.45% and the indexed ARR for the year Y4 will be (9) x 1.0345)		4.26%
(11).	Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No. 10 above		49,565.61
(11A)	Voluntary Adjustment of Past Surplus (While we do not admit to any past surplus, should any such surplus arise either out of mutual discussions or by a decision of the Bombay High Court, the amount of ARR foregone by us amounting to ₹. 21,759 Lakh (₹. 7,253.13 lakh X 3) should be adjusted against the same."		7,253.13
(12).	Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above (after Adjustment of Past Surplus [(11)-11A]	As per Form 4 & Note 5	42,312.48

- 4.4. The NSICTPL has furnished in Form 4, the working of revenue estimation for the existing tariff as well as the proposed tariff for the average of the actual traffic handled by the NSICTPL during the years Y1, Y2 and Y3. As per the said form, the total revenue estimated at the proposed level of tariff is $\stackrel{?}{\underset{}{\sim}}$ 42,312 lakhs. Tariff increase sought by NSICT is in the range of 50% to 138% in various tariff items
- 4.5. The NSICTPL has furnished a copy each of the Audited Annual Accounts for the financial years 2016-17, 2017-18 and 2018-19.
- 4.6. The Proposal of NSICT is as follows:

(a)	Tariff
(a)	raini

(a)	1 at 111			
Sl. No.	Description	Existing tariff	Proposed Tariff	% increase over the existing tariff
(1)	(2)	(3)	(4)	(10) = (4-3)/3
	Tariff Items			
	Container traffic (in TEUs)			
A.	Foreign containers			

	(1) Loaded Containers	₹.	₹.	
	(a) 20 ft containers	3,740	6,144	64%
	(b) 20-40 ft containers	5,610	9,216	64%
	(c) Above 40 ft containers	7,057	12,288	74%
	(2) Empty Containers	7,007	12,200	, , , , ,
	(a) 20 ft containers	3,183	5,349	68%
	(b) 20-40 ft containers	4,774	8,024	68%
	(c) Above 40 ft containers	5,944	10,698	80%
	(3) Reefer Containers	3,511	10,050	0070
	(a) 20 ft containers	3,740	6,144	64%
	(b) 20-40 ft containers	5,610	9,216	64%
	(c) Above 40 ft containers	7,057	12.288	74%
	(4) HAZ Containers	,,,,,,,,	12,200	, , , , c
	(a) 20 ft containers	4,675	9,216	97%
	(b) 20-40 ft containers	7,012	13,824	97%
	(c) Above 40 ft containers	8,822	18,432	109%
	(5) ODC Containers	,,,,,,,	,2	20070
	(a) 20 ft containers	7,479	9,216	23%
	(b) 20-40 ft containers	11,219	13,824	23%
	(c) Above 40 ft containers	14,115	18,432	31%
В	Foreign Transhipment containers	1,,110	20,.02	2270
	(1) Loaded Containers			
	(a) 20 ft containers	1,671	3,975	138%
	(b) 20-40 ft containers	2,506	5,963	138%
	(c) Above 40 ft containers	3,341	7,950	138%
	(2) Empty Containers	-,	. ,	
	(a) 20 ft containers	1,448	3,379	133%
	(b) 20-40 ft containers	2,172	5,068	133%
	(c) Above 40 ft containers	2,896	6,758	133%
С	Others (Restow - Foreign)	7	.,,,,,,	
	(1) Loaded Containers			
	(a) 20 ft containers	8,309	15,208	83%
	(b) 20-40 ft containers	12,464	22,812	83%
	(c) Above 40 ft containers	16,618	30,416	83%
G	Hatch Cover (Ref Note1)			
	Foreign Vessel	6,231	11,405	83%
	Coastal	6,231	11,405	83%
I	Reefer Revenue - Supply of Electricity	6,656	6,656	0%
J	Storage		,	
	Full	173	311	80%
	Empty	652	1,174	80%
K	Other revenue	162	244	50%
L	Shut Outs/ Renomination	85	155	83%
M	ITRHO ₹.400 - Shipping Lines	65	65	0%
N	ITRHO ₹. 400 JNPT Terminals	50	50	0%

- (b) Revenue Requirement is foregone by Voluntary adjustment of past surplus at ₹.7253.13 Lakh per annum.
- 5.1. In accordance with the consultative procedure prescribed, a copy of the proposal of NSICTPL dated 18 November 2019 was forwarded to the concerned users/ user organisations seeking their comments. Based on the request made by NSICTPL regarding non-circulation of some of the documents to the users, on the ground of it being sensitive, only Form 1, 2, 3, 5 and the proposed Scale of Rates were circulated to the users as per Clause 4.3 of the Tariff Guidelines, 2019. The entire proposal (except the Annual Accounts) was however, forwarded to the Licensor Port, JNPT, for its comments.
- 5.2. None of the users/ user organisations have furnished their comments till the case was finalized.
- 6.1. As brought out at preceding para no. 2.1, 2.2 and 2.3 above, the Hon'ble High Court of Bombay has stayed the last tariff Order passed by this Authority in the year 2012 and has permitted NSICTPL to levy the

then prevailing tariff, which is as per the tariff order dated 30 December 2008 passed by this Authority. The said Court Order is still in force.

- 6.2. In view of the High Court order, it was felt that the submission of a proposal by NSICTPL for review of its SOR, consequent processing of the proposal by TAMP, passing of the Order by this Authority and implementation of the Order by NSICTPL should not amount to contravention of the High Court Order. Hence, NSICTPL was requested *vide* letter dated 26 November 2019 to intimate the Hon'ble Bombay High Court about NSICTPL filing a proposal for General revision of its Scale of Rates (SOR) with this Authority under Tariff Guidelines 2019.
- 6.3. In this regard, the NSICTPL vide its letter dated 13 December 2019 has furnished a copy of its intimation to the Hon'ble High Court of Bombay about NSICTPL filing a proposal for General Revision of its Scale of Rates with TAMP under Tariff Guidelines, 2019.
- 7. A joint hearing on the case in reference was held on 23 December 2019 at the Office of the Authority. The NSICTPL made a presentation of the proposal. At the joint hearing, the NSICTPL, the licensor Port *i.e.* JNPT and user associations have made their submissions.
- 8.1. Based on the preliminary scrutiny of the proposal, additional information/ clarification was sought from NSICTPL vide letter dated 27 January 2020. The NSICTPL has responded vide its letter dated 29 January 2020 and e-mails dated 05 February 2020, 06 February 2020 and 18 February 2020. The information sought and the response of the NSICTPL thereon are tabulated below:

Sl.	Information sought	Response of NSICTPL
No.	Ŭ	•
A.	General	
	As already requested vide our letter of even number date 26 November 2019, NSICTPL to forward a copy of the Separate Agreement duly signed by NSICTPL and JNPT.	(The NSICTPL vide its email dated 18.2.2020 has forwarded a copy of the Separate Agreement executed between NSICTPL & JNPT)
B.	ARR Computation	
(i).	The Form-1 reflects the Operating expenditure to the tune of ₹ 36,895.20 lakhs and ₹ 36,768.83 lakhs for the years 2017-18 and 2018-19 respectively. However, in the Audited Annual Accounts for the respective year, the total Expenditure minus Finance cost works out to an amount of ₹ 36894.20 lakhs (₹ 36953.80 lakhs – ₹ 59.60 lakhs) for the year 2017-18 and ₹. 37365.10 lakhs (₹ 37431.60 lakhs – ₹ 66.50 lakhs). The NSICTPL to consider the operating expenditure as per Audited Annual Accounts for the years 2017-18 and 2018-19.	Considered and revised in Form-1.
(ii).	The Finance cost as considered under the Form-1 i.e. ₹. 58.60 lakhs for the year 2017-18 and ₹.59.80 for the year 2018-19 is not matching with figures as reflected in the Audited Annual Accounts i.e. ₹ 59.60 lakhs and ₹. 66.50 lakhs for the years 2017-18 and 2018-19 respectively. The NSICT to consider the Finance cost as per Audited Annual Account for the year 2017-18 and 2018-19.	Considered and revised in Form-1.
(iii).	The Annual Accounts for the year 2018-19 reflect 'Provision for Bad and Doubtful Debts' to the tune of ₹ 594 lakhs. Provision for doubtful debts is not an admissible cost as per clause 2.3.1 of 2019 Guidelines. The said provision is not seen to have been excluded by the NSICTPL while determining the ARR. The same to be excluded.	Considered and revised in Form-1. NSICTPL vide its e-mail dated 05 February 2020 has confirmed that the gain/ loss on foreign currency transactions as reflected in the Audited Annual Accounts is towards import of goods and services.
(iv).	The NSICTPL has not furnished the Reconciliation statement of expenses reported in Audited Annual Accounts under IND AS and expenditure considered in the cost statement as per IGAAP for each of the years under consideration in Form-6A. Form-6A furnished by NSICTPL is blank. The requisite information to be furnished.	There is no IND AS adjustments in Financials. Incase of Fixed assets, company has taken carrying value of the Fixed Assets as on March 31, 2014 as the opening value for the Financial year 2015-16 as per the provision of IND AS transition Account Standards
(v).	The figures of Gross Fixed Assets as per IGAAP and Capital Work in Progress as on 31 March 2019 as considered in Form no. 1 are seen to be based on Form no. 7 furnished by NSICTPL. With regard to Form no. 7, the NSICTPL to furnish the following:	
(a).	A reconciliation statement between opening Balance of the Gross Fixed Assets for each of the asset category viz., Plant and	It may be noted that there is no IND AS adjustment carried out. For F.Y. 2016-17,

	Machinery, Furniture and Fixtures, Office equipment, Computers, Hardware Network, Vehicles and any other Fixed Assets for the year 2016-17, 2017-18 and 2018-19 as per IGAAP and INDAS.	company has availed the deemed cost exemption in relation to the property and equipment on the date of transition and hence the net block carrying amount has been considered as the gross block carrying amount on the date. Reconciliation statement and the relevant pages of financials of F.Y.2016-17 is furnished by NSICTPL.
(b).	Workings in support of the above also to be furnished.	Working in this regard is furnished by NSICTPL.
(c).	Workings in support of Depreciation in respect of each of the asset category viz., Plant and Machinery, Furniture and Fixtures, Office equipment, Computers, Hardware Network, Vehicles and any other Fixed Assets, for each of the years 2016-17 to 2018-19.	Working in this regard is furnished by NSICTPL
(d).	The figures of disposal & addition shown under gross fixed assets schedule as considered in Form no.7 for the year 2018-19 is not seen to match with the Annual Accounts of the year 2018-19. The NSICT to consider the figures as per Audited Annual Account for the year 2018-19.	NSICTPL has Considered the figures as Audited accounts. Corrected Form no.7 of the Tariff proposal is furnished by NSICTPL.
(vi).	With regard to the Working Capital in Form no. 3, the NSICT to clarify/ to confirm that it does not any have sundry debtors on account of contractual obligation with JNPT as per clause 2.5 of the Tariff Guidelines, 2019.	It is confirmed that NSICTPL does not have any contractual obligation with JNPT as per clause 2.5 of the Tariff Guidelines, 2019.
(vii).	As per clause 2.8 of Tariff Guidelines 2019, the assessed ARR as per clause 2.1 to 2.7 is to be indexed by 100% of the Wholesale price index (WPI) applicable as communicated by TAMP to arrive at the indexed ARR for the immediate subsequent year. For example, if Y4 is 2018-19, then the indexed ARR for the year Y4 will be determined based on the applicable WPI of 3.45%. In the Instant case, the Y1 is 2016-17, Y2 is 2017-18 and Y3 is 2018-19 and the immediate subsequent year (Y4) is 2019-20. However, for the propose of indexation of ARR, NSICTPL has considered the year 2018-19 as Y4 and applied an indexation factor 3.45% instead of considering 2019-20 as Y4 and applying indexation factor of 4.26%. The NSICTPL to consider the indexation factor of 4.26% to determine the indexed ARR.	NSICTPL has considered the indexation factor of 4.26% in the proposal submitted to TAMP. Hence no change is required.
C.		
(i).	Revenue Estimation In Form 4, the NSICTPL has indicated the average traffic at 6.43 Lakh TEUs based on the traffic for the years 2016-17 to 2018-19. In the same Form-4, for revenue estimation, NSICTPL has considered various container mix. The aggregate of the said container mix may be matched with the average traffic of 6.43 Lakh TEUs and a working in this regard also to be furnished.	The aggregate of the container mix has been matched with Average Traffic of 6.43 Lakhs TEUs. Working in this regard is furnished by NSICTPL.
(ii).	The proposed aggregate tariff of 'ship to yard or vice versa using	All tariff items have been reviewed
	port crane and 'yard to truck or vice versa considered for estimating the revenue in respect of the handling of Loaded, Empty, Reefer, Hazardous and ODC containers above 40 feet in Form-4 is not matching with the tariff as per the proposed Draft SOR. To cite an example, with regard to handling of a normal foreign loaded above 40' container, the tariff of `11866 has been considered for estimation of income at the proposed level of tariff, whereas the aggregate tariff as per proposed SOR works out to ₹ 12288 per container [₹ 10600 + ₹ 1688]. The NSICT to review all tariff items and recast the revenue estimation accordingly.	NSICTPL and the revenue estimation have been recasted accordingly and corrected in revised Form -4 furnished by NSICTPL.
	estimating the revenue in respect of the handling of Loaded, Empty, Reefer, Hazardous and ODC containers above 40 feet in Form-4 is not matching with the tariff as per the proposed Draft SOR. To cite an example, with regard to handling of a normal foreign loaded above 40' container, the tariff of `11866 has been considered for estimation of income at the proposed level of tariff, whereas the aggregate tariff as per proposed SOR works out to ₹ 12288 per container [₹ 10600 + ₹ 1688]. The NSICT to review all tariff items and recast the revenue estimation	have been recasted accordingly and corrected in revised Form -4 furnished by NSICTPL. There is no error in the Form 4, as the transshipment rate mentioned is for one move (50%). However in SOR the rate is based on full cycle of transshipment is INR 7,950.
(iii).	estimating the revenue in respect of the handling of Loaded, Empty, Reefer, Hazardous and ODC containers above 40 feet in Form-4 is not matching with the tariff as per the proposed Draft SOR. To cite an example, with regard to handling of a normal foreign loaded above 40' container, the tariff of `11866 has been considered for estimation of income at the proposed level of tariff, whereas the aggregate tariff as per proposed SOR works out to ₹ 12288 per container [₹ 10600 + ₹ 1688]. The NSICT to review all tariff items and recast the revenue estimation accordingly. The rates considered for revenue estimation in case of Transshipment Containers is seen to be lower than the rates proposed in the draft Scale of Rates. The NSICTPL to rectify the error in the revenue estimation at Form-4. Please confirm that the NSICTPL has estimated income for all the tariff items as proposed by it in its proposed Scale of Rates. It not, revenue to be estimated on those tariff items based on the years 2016-17, 2017-18 and 2018-19.	have been recasted accordingly and corrected in revised Form -4 furnished by NSICTPL. There is no error in the Form 4, as the transshipment rate mentioned is for one move (50%). However in SOR the rate is based on full cycle of transshipment is
(iii).	estimating the revenue in respect of the handling of Loaded, Empty, Reefer, Hazardous and ODC containers above 40 feet in Form-4 is not matching with the tariff as per the proposed Draft SOR. To cite an example, with regard to handling of a normal foreign loaded above 40' container, the tariff of `11866 has been considered for estimation of income at the proposed level of tariff, whereas the aggregate tariff as per proposed SOR works out to ₹ 12288 per container [₹ 10600 + ₹ 1688]. The NSICT to review all tariff items and recast the revenue estimation accordingly. The rates considered for revenue estimation in case of Transshipment Containers is seen to be lower than the rates proposed in the draft Scale of Rates. The NSICTPL to rectify the error in the revenue estimation at Form-4. Please confirm that the NSICTPL has estimated income for all the tariff items as proposed by it in its proposed Scale of Rates. It not, revenue to be estimated on those tariff items based on the years 2016-17, 2017-18 and 2018-19. Proposed Scale of Rates	have been recasted accordingly and corrected in revised Form -4 furnished by NSICTPL. There is no error in the Form 4, as the transshipment rate mentioned is for one move (50%). However in SOR the rate is based on full cycle of transshipment is INR 7,950. It is confirmed that all tariff items as proposed in the proposed Scale of Rates
(iii).	estimating the revenue in respect of the handling of Loaded, Empty, Reefer, Hazardous and ODC containers above 40 feet in Form-4 is not matching with the tariff as per the proposed Draft SOR. To cite an example, with regard to handling of a normal foreign loaded above 40' container, the tariff of `11866 has been considered for estimation of income at the proposed level of tariff, whereas the aggregate tariff as per proposed SOR works out to ₹ 12288 per container [₹ 10600 + ₹ 1688]. The NSICT to review all tariff items and recast the revenue estimation accordingly. The rates considered for revenue estimation in case of Transshipment Containers is seen to be lower than the rates proposed in the draft Scale of Rates. The NSICTPL to rectify the error in the revenue estimation at Form-4. Please confirm that the NSICTPL has estimated income for all the tariff items as proposed by it in its proposed Scale of Rates. It not, revenue to be estimated on those tariff items based on the years 2016-17, 2017-18 and 2018-19.	have been recasted accordingly and corrected in revised Form -4 furnished by NSICTPL. There is no error in the Form 4, as the transshipment rate mentioned is for one move (50%). However in SOR the rate is based on full cycle of transshipment is INR 7,950. It is confirmed that all tariff items as proposed in the proposed Scale of Rates

()	TI 1.1 GOD 11	T. 1 . 1 . 1 . 1
(a).	The existing SOR prescribes separates charges for movement of	It is proposed to drop the above
	containers from yard to CFS/ CFS to Yard – Transport and lifts at	mentioned charges in the SOR. Revised
	CFS for normal and reefer containers at clause 3.1.(B), for	proposed SOR is furnished by NSICTPL.
	hazardous containers at clause 3.3 (B), and for over	
	dimensional cargo containers at clause 3.4 (B). In the	
	proposed SOR, instead of separate charges, the NSICTPL has	
	proposed a provision stating that the rate for yard to CFS-	
	Transport and lifts as CFS is to be mutually agreed between	
	Terminal and customer based on the distance from Yard to CFS/	
	CFS to Yard. Section 48 of the MPT Act, 1963 mandates the	
	Authority to fix the rates for services rendered. Therefore, the	
	Authority may not be in a position to approve such a note.	
	Therefore, specific rates for such services to be proposed.	
(b).	Consequently, the income to be generated by the NSICTPL based	
(0).	on the said proposed tariff to be captured in the estimation of	
	income at the proposed Scale of Rates in Form No. 4.	
(ii).	In the proposed Scale of Rates, under Section 11 – Miscellaneous	It is proposed to drop the above
(11).	Charges, the NSICTPL at sl. No. (xiii) has introduced Gangway	mentioned charges in the SOR. Revised
	charges at ₹ 5000/- per Vessel. The said incorporation has not	proposed SOR is furnished by NSICTPL.
	been captured by NSICTPL in Form -5. In this connection, the	proposed SOR is furnished by NSIC II E.
	NSICTPL is requested to clarify/ furnish the following:	
(0)		
(a).	The basis/ workings to arrive at the proposed new rate, keeping in	
	view the stipulation contained in Clause 5.6.1 of the Tariff	
(1-)	Guidelines, 2019.	
(b).	Reason for introducing a new levy along with the nature of	
	service proposed to be rendered by NSICTPL for levy of	
	gangway charges.	
(c).	The quantum of income that has been captured in the income	
	estimation at the proposed level of tariff, on account of the	
	proposed new levy.	

8.2. As brought out above, while furnishing the additional information and clarification, the NSICTPL has revised its various tariff filling forms and has also furnished a revised draft SOR. The NSICTPL vide its e-mail dated 06 February 2020 has furnished Revised tariff filing forms and the revised draft Scale of Rates. A summary position of Revised ARR computation furnished by NSICTPL vide its e-mail dated 06 February 2020 is given below:

(Amount in ₹.)

Sl. No.	Description		Y1 2016-17	Y2 2017-18	Y3 2018-19
(1).	TotalExpenditure (As per Audited Annual Accounts)	Note 1			
(i).	Operating expenses (including depreciation)		38,292.10	36,894.20	36,762.13
(ii).	Finance and Miscellaneous expenses (FME)		56.90	59.60	66.50
	Total Expenditure 1=(i)+(ii)		38,349.00	36,953.80	36,828.63
(2).	Adjustments in respect of items where	Form 6			
	there is variation in figures reported as	A and			
	per INDAS (as per Audited Accounts) and IGAAP	Note 2			
(i).	Depreciation		=	-	-
(ii).	Other expenditure items, if any, to be listed -Lease rent paid				-
	Total of Adjustments 2=(i)+(ii)		-	-	-
(3).	Less Adjustments:				
(i).	Actual Royalty / Revenue share paid to the port		21,855.20	20,297.50	19,752.10
(ii).	Interest on loans		-	-	-
(iii).	Provision for bad and doubtful debts		-	4.00	593.95
(iv).	Provision for slow moving inventory		-	-	-
(v)	Other provisions, if any		-	-	-
	Total of $3 = [3(i)+3(ii)+3(ii)+3(iv)+3(v)]$		21,855.20	20,301.50	20,346.05
(4).	Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019	Form 2 and Note 3	15,189.36	14,106.76	13,727.71

(5).	Total Expenditure after Total Adjustments (5 = 1+2+3)		31,683.16	30,759.06	30,210.28
(6).	Average Expenses of SI. No.5 = [Y1 + Y2 + Y3] / 3			1	30,884.17
(7).	Capital Employed				
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)				99,652.09
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)				1.81
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019	As per Form 3 & Note 4			
	(a). Inventory				307.60
	(b). Sundry Debtors				-
	(c). Cash				2,909.52
	(d). Sum of (a)+(b)+(c)				3,217.12
	(iv). Total Capital Employed [(i)+(ii)-(iii)]				102,871.02
(8).	Return on Capital Employed 16% on SI. No.7(iv)				16,459.36
(9).	Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]				47,343.53
(10).	Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2018-19, then the applicable WPI is 3.45% and the indexed ARR for the year Y4 will be (9) x 1.0345)				4.26%
(11).	Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No. 10 above				49,360.37
(11A)	Voluntary Adjustment of Past Surplus – (While we do not admit to any past surplus, should any such surplus arise either out of mutual discussions or by a decision of the Bombay High Court, the amount of ARR foregone by us amounting to Rs. 21,759 Lakh (Rs. 7,253.13 lakh X 3) should be adjusted against the same."				6,865.65
(12).	Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above (after Adjustment of Past Surplus [(11)-11A]	As per Form 4 & Note 5			42,494.72

9.1 Based on the scrutiny of the NSICTPL proposal, the Licensor port JNPT was also requested vide our letter dated 27 January 2020 to furnish some information/clarification followed by a reminder dated 04 February 2020. The JNPT has responded vide its email dated 5 February 2020. The information sought and the response of the JNPT thereon are tabulated below:

Sl.	Information sought	Response of JNPT
No.		
(i).	The NSICT has reported in its tariff proposal dated 18	Entering into a Separate Agreement with
	November 2019 that it has submitted a letter dated 15	M/s NSICT as per the stipulation
	November 2019 to JNPT for execution of Separate	contained in Clause 1.9 of the 2019
	Agreement as per the stipulation contained in Clause	Guidelines is under process.
	1.9 of the 2019 Guidelines. The copy of the Agreement	
	entered by NSICTPL with JNPT, duly signed by both	
	the parties to be furnished.	
(ii).	To furnish its comments on the computation of ARR as	
	furnished by NSICTPL in its Form No. 1.	

(iii).	In Form 4, the NSICTPL has indicated the average	Average Traffic of 6.43 Lakh TEUs for
	traffic at 6.43 Lakh TEUs for the years 2016-17 to	the financial years 2016-17, 2017-18 and
	2018-19. The said average traffic at 6.43 lakh TEUs to	2018-19 is found to be in order.
	be confirmed by JNPT.	
(iv).	To furnish its comments on the estimation of revenue	No comments furnished by JNPT.
	at the proposed level of tariff as furnished by	
	NSICTPL in its Form no. 4.	
(v).	To furnish its comments on the ITRHO income	No comments furnished by JNPT.
	estimated by the NSICTPL in Form no. 1.	
(vi).	To furnish its comments on the comparative statement	No comments furnished by JNPT.
	furnished by NSICTPL in Form no. 5, highlighting the	
	changes/ amendments proposed by NSICTPL in its	
	proposed Scale of Rates vis-a-via the existing Scale of	
	Rates.	
-	-	TAMP may fix the tariff of NSICTPL as
		per the Tariff Guidelines, 2019 issued by
		the MOS.

- 9.2 While furnishing the information, as brought out in the preceding paragraph, the JNPT vide its email dated 05 February 2020 has also made the following submissions with regard to the Draft Scale of Rates (SOR) proposed by NSICTPL
 - (i). Section 10 Procedure and Charges for Inter Terminal Transfer of Transshipment containers between NSICT and JNPT.

The JNPT has modified the charges that to be collected on account of Inter Terminal Handling Charges from BOT Operator and following clauses have been proposed it the NSICTPL Scale of Rates as per Clause no. 3.3.6:-

"Charges for handling Transshipment containers between JNPT and BOT Terminals

If a container is discharged by the JNPT and loaded by the BOT Terminals and vice versa, the charges will be as under;

50% of Transshipment container handling charges and Lift Off/Lift On charges as per the JNPT Scale of Rates will be charges to the line by the JNPT for the same container.

The BOT will charge 50% of the Transshipment container handling charges as per its Scale of Rates, in addition, also levy a charges towards Inter Terminal Transfer as per its Scale of Rates."

The above clause need to be incorporated in NSICTPL Scale of Rates also. The JNPT has informed NSICTPL to incorporate the same.

- (ii). As regards the service of sending container survey report/ photo at Gate through electronic process of other charges proposed by NSICTPL, it is submitted that such facility is not provided by JNPT. However, TAMP may fix the tariff as per guidelines.
- 10. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the arguments made by the concerned parties during the joint hearing will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.
- 11. With reference to the totality of the information collected during the processing of this case, the following position emerges:
 - (i). The Scale of Rates of Nhava Sheva International Container Terminal Private Limited (NSICTPL) was last revised by this Authority vide Order dated 14 February 2012, following the Tariff Guidelines 2005. Vide the said Order, this Authority has effected an across the board reduction of 27.85% over the then prevailing tariff of NSICTPL (*i.e.* tariff approved for NSICTPL vide Order no. TAMP/55/2008- NSICT dated 30 December 2008). Aggrieved by said reduction in its tariff, the NSICTPL has challenged the tariff order of 14 February 2012 by its Writ Petition No.2954 of 2012 in the Hon'ble High Court of Bombay. The Hon'ble High Court have stayed the operation of the Order and has permitted the Petitioner i.e. NSICTPL to charge at the old (higher) rates. The writ petition is yet to be disposed of by the Hon'ble Court.

- (ii) In the meanwhile, the Ministry of Shipping (MOS), as a policy direction under Section 111 of the Major Port Trusts Act, 1963, has issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Guidelines. Consequent to the issue of the Tariff Guidelines, 2019, by the MOS, the tariff fixation exercise in respect of the NSICTPL is to be governed by the stipulations contained in the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019.
- (iii). In this backdrop, the NSICTPL has come up with a proposal in November 2019 for revision of its tariff, following the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019. The revision has been sought by the NSICTPL on the tariff as approved by this Authority vide its Order dated 30 December 2008, which is now being levied by the NSICTPL based on the Order of the Hon'ble Court. As brought out earlier, the NSICT has intimated the Hon'ble High Court of Bombay about filing a tariff proposal under the Tariff Guidelines, 2019 before this Authority.
- (iv). The NSICTPL has filed its proposal for general revision of its Scale of Rates in November 2019. Thereafter, in February 2020, the NSICTPL while furnishing the additional information/clarification, has filed its revised proposal after rectifying the errors and incorporating the omission, but without change in the quantum of hike proposed in tariff in its original proposal of November 2019. The revised proposal of February 2020 along with the additional information/ clarification furnished by NSICTPL during the processing of the case is considered in this analysis.
- (v). (a). Clause 2.1 of the Tariff Guidelines, 2019 requires the BOT Operator to assess the Annual Revenue Requirement (ARR) which is the average of the sum of the Actual Expenditure as per the final Audited Annual Accounts of the immediate preceding three years (Y1), (Y2) and (Y3) at the time of submitting the proposal subject to certain exclusions as prescribed in Clause 2.2., 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines issued by this Authority plus Return at 16% on the Capital Employed obtaining as on 31st March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.
 - (b). The NSICTPL has assessed the Annual Revenue Requirement (ARR) for the three years i.e. 2016-17 (Y1), 2017-18 (Y2) and 2018-19 (Y3) duly certified by the practicing Chartered Accountant.
 - The figures of operating expenditure and finance & miscellaneous expenditure as considered for the years 2016-17 and 2017-18 in revised Form-1 is seen to be as per the Audited Annual Accounts. However, in respect of year 2018-19, the figure relating to operating expenditure ($\overline{\xi}$ 36,762.13 Lakhs) is not seen to be as per the Audited Annual Accounts of 2018-19. The figure of operating expenditure ($\overline{\xi}$ 37365.10 lakhs) for the year 2018-19 has been considered as in the Audited Annual Accounts of 2018-19.
 - (c). While assessing the ARR, the NSICTPL has not made any adjustments in respect of items where there is variation in figures reported in IND AS (As per Audited Annual Accounts) and Indian Generally Accepted Accounting Principles (IGAAP) in ARR computation, as prescribed in Clause 2.3.2.of the Tariff Guidelines, 2019. In this regard, the NSICTPL has clarified that there is no IND AS adjustments in the financials, in case of the fixed assets, as the NSICTPL has taken carrying value of the Fixed Assets as per the provision of IND AS transition Accounting Standards. Based on the above and also since the Form 1 (wherein the said adjustments need to have been captured) has been certified by a Chartered Accountant, the position as reported by NSICTPL in this regard is relied upon.
 - (d). As prescribed in Clause 2.2 and 2.3.1 of the Tariff Guidelines, 2019, the NSICTPL has excluded the following expenses, which are not admissible in ARR computation, in line with the provisions prescribed in Clause 2.2 and 2.3.1 of the Tariff Guidelines, 2019. The said adjustments are brought out for specific mention:
 - (i). Clause 2.2 of the Tariff Guidelines, 2019, *interalia*, stipulates that in those cases where the bidding process was finalized before 29 July 2003, the ARR computation will take into account the Royalty/ Revenue share payable to the landlord port by the BOT operator, to the extent of the next highest bidder.

NSICTPL is a BOT operator, who falls in the pre July 2003 era. Thus, in case of NSICTPL, the Royalty paid by NSICTPL to the Licensor port JNPT is admissible as an item of cost to the extent of the next highest bidder. Accordingly, 69.50% of the Royalty as reflected in the Audited Annual Accounts for the years 2016-17 to 2018-19 has been considered by the NSICTPL in the computation of ARR, in line with the clause 2.2 of the tariff guidelines of 2019, which was also followed when the tariff of NSICTPL was being fixed under 2005 Tariff Guidelines.

In the proceedings relating to the case in reference, the NSICTPL has made a mention about an Arbitration award, wherein it has been, inter alia, held that the Royalty per TEU needs to be converted to a Revenue Share and that the JNPT has been directed to amend the License Agreement. Though the License Agreement between JNPT and NSICTPL has been reported to have not been amended, it is premature to state that the said award may have impact on the quantum of the Royalty amount considered in the ARR computation of NSICTPL, in the absence of complete details not made available by NSICTPL.

- (ii). As per Clause 2.3.1 (ii) of the Tariff Guidelines, 2019, the NSICTPL has excluded the provision for bad and doubtful debts and provision for slow moving stores and spares as reflected in the Audited Annual Accounts for the years 2017-18 and 2018-19 respectively. The Audited Annual Accounts of NSICTPL does not reflect any provisions during the year 2016-17.
- (iii). The schedule of 'Finance Costs' in the audited Annual Accounts of NSICTPL reflects an amount of ₹ 1.00 lakh and ₹.6.70 lakhs towards "Interest on Bank Overdraft" for years 2017-18 and 2018-19 respectively. The NSICTPL has not considered such amount for exclusion in Form-1. Since the Interest on Bank Overdraft is in the nature of interest cost, the said expenditure is excluded from the total expenditure in line with the provision of clause 2.3.1(ii) of the Tariff Guidelines, 2019, to arrive at the ARR.
- (iv). Following the provisions prescribed at Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019, and based on the adjustments as effected as brought out above, the average expense for the years 2016-17 to 2018-19 works out to ₹ 310.83 crores, as against the average expense of ₹ 308.84 lakhs as assessed by the NSICTPL.
- (vi). (a). As per Clause 2.5 of the Tariff Guidelines of 2019, the NSICTPL has worked out the figure of Capital Employed. Capital employed comprises of Gross Fixed assets as arrived as per IGAAP plus capital work in progress as on 31 March 2019. The NSICTPL has furnished workings with regard to Gross fixed assets as per IGAAP duly certified by a Chartered Accountant. The capital work in progress has been considered based on the audited Annual Accounts for the year 2018-19. The Gross fixed assets at ₹ 996.52 crores and the Capital Work in Progress at ₹ 1.81 lakhs as on 31 March 2019, as considered by the NSICTPL is considered in the analysis.
 - (b). Clause 2.6. of the Tariff Guidelines, 2019 prescribes the norms for determining the working capital. Working capital comprises of Inventory, Sundry debtors and Cash balances, as per Clause 2.6 of the Tariff Guidelines, 2019. Limit on inventory for capital spares will be one year's average consumption and in case of other items of inventory the limit will be six months' average consumption of stores excluding fuels. Limit on cash balance will be one month's cash expenses. Advance payment of Revenue Share/ royalty and lease rental / license fee to the landlord port flowing from the contractual obligations is to be treated as sundry debtors.
 - (c). The NSICTPL has considered Inventory excluding fuel and customized spares to the tune of ₹ 3.08 crores, which is seen to be six months average consumption as reflected in the Audited Annual Accounts for the year 2018-19 (*i.e.* ₹. 6.15 crores /2= ₹ 3.08 crores). The same is considered in the analysis.
 - (d). The NSICTPL has not considered any amount towards Sundry Debtors as part of working capital in Form-1. In this regard, the NSICTPL has confirmed that it does not have any sundry debtors on account of contractual obligation with JNPT as required under clause 2.5 of the Tariff Guidelines, 2019.

- (e). The Cash balance as assessed by NSICTPL has been slightly revised on account of the change in the operating expenditure considered for the year 2018-19 as per Audited Annual Accounts for the said year, as discussed earlier.
- (f). Thus, based on the above, the Working Capital has been worked out at ₹32.67 crores as against the working capital of ₹32.17 cores, as considered by NSICTPL.
- (g). Thus, based on the above, the total capital employed including the working capital works out to ₹ 1029.21 crores as against the capital employed of ₹ 1028.71 crores as assessed by the NSICTPL
- (vii). As per Clause 2.7 of the Tariff Guidelines, 2019, Return on Capital Employed (ROCE) at 16% is worked out on the revised Capital Employed, which works out to ₹ 164.67 crores, which is considered in the Annual Revenue Requirement (ARR) computation.
- (viii). The ARR comprises of the average of the expenditure for the three financial years 2016-17 to 2018-19 plus 16% ROCE. Subject to modifications as explained above, the ARR has been worked out to ₹475.50 crores, as against the ARR assessed by the NSICTPL at ₹473.44 crores.

Further, as per Clause 2.8 of Tariff Guidelines, 2019, the said ARR needs to be indexed @ 100% of the WPI applicable for the year 2019-20 which is 4.26%. The indexed ceiling ARR has been worked out to ₹495.75 crores (i.e. ₹ 475.50 crores * 1.0426), as against the indexed ARR assessed by the NSICTPL at ₹ 493.60 crores. The detailed ARR calculation is attached as **Annex** − **I**.

A summary of the ceiling indexed ARR, is given below:

(₹ in crores)

Sr.	Particulars	ARR computation	
No.		As	As
		furnished by	Considered
		NSICTPL	by us
1	Average Expenses [Y1+Y2+Y3]/3	308.84	310.83
2	Capital employed as on 31.03.2019 including	1028.71	1029.21
	capital work in progress as on 31.03.2019 and		
	working capital as per norms		
3	Return on capital employed @ 16%	164.60	164.67
4	ARR as on 31 March 2019 (4=1+3)	473.44	475.50
5	Indexation in the ARR @ 100% of the WPI	493.60	495.75
	applicable for the year 2019-20 (4.26%)		
6	Ceiling Indexed Annual Revenue Requirement	493.60	495.75
	(ARR)		

As per clause 2.9 of the Tariff Guidelines, 2019, based on the Ceiling Indexed ARR as determined at sl. no. 6 above, the NSICTPL has to draw its proposed Scale of Rates (SOR).

- (ix). (a). As per Clause 2.10 of Tariff Guidelines, 2019, for drawing the SOR, the traffic to be considered would be the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3, duly certified by the concerned port. The average traffic for the years 2016-17 to 2018-19 considered by the NSICTPL at 6,43,448 TEUs, has been confirmed by the Licensor port, JNPT.
 - (b). As per Clause 2.11.1 of Tariff Guidelines, 2019, the BOT Operators have the flexibility to determine the rates to respond to the market forces based on commercial judgment and draw the Scale of Rates within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant. While drawing up the proposed SOR, the NSICTPL is seen to have proposed an increase ranging from 0% to 138% on the existing tariff being levied by the NSICTPL

The NSICTPL has given detailed working of revenue estimation indicating the tariff items in the proposed SOR for corresponding average traffic for the years 2016-17 to 2018-19, as required as per Clause 2.11.1. of the Tariff Guidelines, 2019. The said revenue estimation statement as assessed by the NSICTPL has been duly certified by a Chartered Accountant.

The revenue estimation at the proposal level of tariff as assessed by NSITPL at ₹. 424.95 crores is seen to be lower than the Ceiling Indexed Annual Revenue Requirement (ARR) of ₹495.75 crores, as discussed earlier, thereby leaving a gap of ₹70.80 crores, which has been left uncovered by the NSICTPL.

- (x). The comparative statement giving the existing conditionalities and the conditionalities wherever the NSICTPL has proposed amendment/ deletion in the existing conditionalities or has proposed introduction of new provisions, along with remarks/ reasoning as furnished by the NSICTPL for the proposed modification along with the comments of JNPT thereon and with the reasoning furnished for recommending acceptance or refusal to the proposed amendments is attached as **Annex II**. The proposed modification/ deletion in the existing conditionalities is approved taking into consideration the remarks/ reasoning furnished by the NSICTPL and JNPT and our remarks/ analysis thereon given in the said Annex-II.
- (xi). The existing SOR prescribes separate charges for movement of containers from yard to CFS/CFS to Yard Transport and lifts at CFS for normal and reefer containers at Section 3.1.(B), for hazardous containers at Section 3.3 (B), and for over dimensional cargo containers at Section 3.4 (B). In the proposed SOR, the NSICTPL has proposed to delete the charges for movement of containers from yard to CFS/CFS to Yard in all the Sections as referred above. The judgment of NSICTPL in this regard is relied upon.
- (xii). This Authority vide Order No. TAMP/12/2019-MUC dated 24 July 2019 has approved revised Mandatory User Charges (MUC) for DMICDC's Logistics Data Bank (LDB) project across all the Major Port Trusts and BOT operators operating thereat. Therefore, the revised MUC on containers for the Logistics Data Bank Service rendered by DMICDC approved by this Authority for a period of two years for common adoption by all Major Port Trusts and BOT terminals thereat shall be applicable in case of NSICTPL also. The said provision is prescribed in the Scale of Rates of NSICTPL.
- (xiii). As per the stipulation contained in Clause 1.9 of the Tariff Guidelines, 2019, the NSICTPL and the Licensor port JNPT have to enter into a separate Agreement, agreeing to abide by the Tariff Guidelines, 2019. Accordingly, the NSICTPL vide its letter dated 18 February 2020 has made available a copy of separate agreement executed between NSICTPL and JNPT.
- (xiv). (a). Before we proceed to consider the revised SOR of NSICTPL, it is pertinent here to draw reference to Clause 3.1.1 of the Tariff Guidelines, 2019, which stipulates that in case of the BOT operators, whose tariff have not been reviewed in the past due to litigations pending in the High Courts on the Tariff Orders passed by this Authority, the surplus/ deficit over and above the admissible costs and permissible return, if any, arising during the period of litigation will be subject to either the orders of the respective Courts or as per the treatment to be collectively decided by the Ministry of Shipping (MOS), concerned Major Port Trust, concerned BOT operator and this Authority.
 - (b). As stipulated in Clause 3.1.1 of the Tariff Guidelines, 2019, and based on clarification / information sought by CITPL (a BOT operator at Chennai Port Trust) and PSA SICAL (a BOT Operator at V.O Chidambaranar Port Trust) on treatment of past period surplus, a Draft Policy Framework to decide on the treatment of past period surplus/ deficit, over and above the admissible costs and permissible return arising during the period of litigation in respect of BOT Operators who have approached various High Courts and have obtained stay on the operation of the last tariff Order passed by this Authority, was prepared and forwarded to the MOS vide our letter no. TAMP/61/2018-Misc dated 26 April 2019, for deliberation by MOS with the concerned BOT operators, concerned Major Port Trusts and this Authority. The MOS has been reminded in this regard vide our letters dated 23 July 2019 and 18 November 2019. The response of MOS is awaited.
- (xv). Without giving the impact of any adjustment of past period surplus during the period of litigation, the income at the estimated level of tariff has been kept at the ARR level of ₹ 495.75 crores, by considering an increase over the existing level of rates being levied by the NSICTPL i.e. the Court permitted tariff, as discussed in the earlier paragraphs. If any adjustment of surplus is carried out in the ARR of ₹ 495.75 crores, it may further reduce the ARR and may warrant a reduction in the quantum of increase as sought by NSICTPL over the existing level of tariff i.e. the Court permitted tariff.

However, in this regard, it is to state that incase of NSICTPL, neither the Hon'ble High Court of Bombay has passed Order disposing of the Writ Petition no. Writ Petition No.2954 of 2012 paving a way for treatment of surplus/ deficit, nor has a decision been received from the MOS, on the treatment of surplus/ (deficit) arising over and above the admissible costs and permissible return during the period of litigation. In other words, neither the methodology for determination of surplus during the period of litigation nor the treatment to be meted out to the surplus accrued during the period of litigation has been firmed up. In the absence of any methodology for determination of surplus and in the absence of any treatment firmed up to deal with the surplus, this Authority is not in a position to carry out any adjustments in this regard, as of now.

(xvi). As brought out earlier, NSICTPL has stated that while it does not admit to any past surplus, it has voluntarily considered a past period surplus adjustment of ₹ 68.66 crores per annum aggregating to about ₹ 206 crores for a period of three years.

As brought out earlier, neither the writ petition filed by NSICTPL has been disposed of by the Hon'ble High Court of Bombay paving a way for treatment of surplus/ deficit, nor there has been a Policy Framework from the MOS. It was on these grounds that no adjustment of past surplus during the period of litigation was considered while disposing of the general revision proposal of other BOT Operators whose tariff was recently fixed based on the stipulations contained in the Tariff Guidelines, 2019, and wherein the matter is pending in High Courts viz., Chennai International Container Terminal Private Limited (CITPL) and Gateway Terminals India Private Limited (GTIPL).

However, the case of NSICTPL is unique as compared to the cases relating to CITPL and GTIPL. While in the case of CITPL and GTIPL, there was no gap left uncovered between the indexed ceiling ARR and the income estimated at the proposed level of tariff, in the case of NSICTPL, there is a gap of ₹70.80 crores between the indexed ceiling ARR and the income estimated at the proposed level of tariff. In other words, even if an adjustment of past period surplus to the tune of ₹70.80 crores is effected from the indexed ceiling ARR, the NSICTPL can still continue to levy its proposed increased rates.

Thus, this Authority has decided to earmark an amount of ₹ 70.80 crores, per annum aggregating to about ₹ 212.40 crores for 3 year to be considered for adjustment towards adjustment of the past period surplus, whenever the Hon'ble High Court of Bombay passes Order disposing of the Writ Petition no. No. 2954 of 2012 paving a way for treatment of surplus/ deficit or a decision from the MOS is received on the treatment of surplus/ (deficit) arising over and above the admissible costs and permissible return during the period of litigation whichever is earlier. In other words, past period surplus amount to the tune of ₹70.80 crores per annum is deemed to have been adjusted in the current exercise upto a period of 3 year and only a surplus over and above ₹70.80 crores per annum is to be considered for adjustment in future.

(xvii). The proposal filed by NSICTPL is before this Authority for disposal. Since the proposal is received as a "Tariff Case", and registered as such, it cannot be kept pending indefinitely. In the fact and circumstances of the case as brought out above, this Authority is inclined to approve the proposal of NSICTPL and to allow increase in tariff, as proposed by NSITPL as discussed earlier.

The NSICTPL also should note that whenever the Hon'ble High Court of Bombay passes Order disposing of the Writ Petition no. No. 2954 of 2012 paving a way for treatment of surplus/ deficit or a decision from the MOS is received on the treatment of surplus/ (deficit) arising over and above the admissible costs and permissible return during the period of litigation, whichever is earlier, the tariff of NSICTPL approved now would be subject to review then, so as to capture the impact of the surplus that has arisen during the period of litigation.

(xviii). It is relevant here to mention that vide letter no. TAMP/46/2015-Misc dated 24 July 2015 it has been communicated to NSICTPL that the surplus quantified for the tariff cycle immediately preceding the challenged tariff Order and the tariff fixed in the said tariff order challenged by the NSICTPL in the Hon'ble High Court will be taken up for review, based on the Ministry of Shipping (MOS) letter No. 14019/20/2009-PG dated 12 June 2015, subject to the permission of the Hon'ble High Court, as the matter is subjudice. Accordingly, an Affidavit has been filed in the Hon'ble Court in August 2015, interalia, praying before the Hon'ble Court to permit this Authority to review the order of January 2012 to give effect to

- the opinion of the Learned Attorney General of India as directed by the MOS. The matter is still pending before the Hon'ble Court. After receipt of permission of the Hon'ble High Court, an exercise to quantify the surplus/ (deficit) based on the MOS letter has to be undertaken.
- (xix). As per Clause 2.12 of the Tariff Guidelines, 2019, the SOR will be indexed annually to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) announced by the Government of India occurring between 1st January to 31st December of the relevant year. Such adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. It is relevant here to state that in the instant case indexation for the year 2019-20 is already considered in the ARR and for drawing the SOR. The next annual indexation in SOR will be applicable from 1 May 2020. That being so, a note is inserted in the SOR to the effect that the SOR approved by this Authority is subject to automatic annual indexation at 60% of the WPI to be announced by this Authority. The annual indexation will be from 01 May 2020. The indexed SOR shall be intimated by the NSICTPL to the JNPT, users and to this Authority.
- 12.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the Scale of Rates and conditionalities of the NSICTPL.
- 12.2. The revised Scale of Rates and conditionalities of the NSICTPL shall come into force after expiry of 30 days from the date of notification of the Order passed by this Authority in the Gazette of India and shall be in force for a period of three years thereafter, subject to annual indexation. The approval accorded to the Scale of Rates shall automatically lapse thereafter unless specifically extended by this Authority.
- 12.3. The tariff of the NSICTPL has been fixed based on the prevailing information and without considering any adjustment of past period surplus relating to the period of litigation. Therefore, whenever the Hon'ble High Court of Bombay passes Order disposing of the Writ Petition no. 2954 of 2012 paving a way for treatment of surplus/ deficit or a decision from the MOS is received on the treatment of surplus/(deficit) arising over and above the admissible costs and permissible return during the period of litigation whichever is earlier, as stipulated in clause 3.1.1 of the Tariff Guidelines, 2019, the tariff of NSICTPL approved now would be subject to review then, so as to capture the impact of the surplus that has accrued to NSITPL during the period of litigation.
- 12.4. As stipulated in Clause 7 of the Tariff Guidelines, 2019, the NSICTPL shall furnish to this Authority, annual reports on container traffic handled, average moves by crane per hour and average dwell time for containers. The annual reports shall be submitted by the NSICTPL within 90 days following the end of each of the year. Any other information which is required by this Authority from time to time shall also be furnished by NSICTPL.
- 12.5. An analysis of variation will also be made at the time of the next general review of tariff of NSICTPL at the end of the tariff validity period and adjustment of additional surplus will be made in the tariff to be fixed for the next cycle, in line with the stipulation contained in Clauses 3.2.1 and 3.2.2 of the Tariff Guidelines, 2019.

T.S. BALASUBRAMANIAN, Member (Finance)

[ADVT.-III/4/Exty./06/2020]

Annex - I

Com	Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tar BOT operators operating at Major Port Trusts.					
	(Rs. in lakhs)					
Sl. No.	Description		2016-17	2017-18	2018-19	
(1).	Total Expenditure (As per Audited Annual Accounts)	Note 1				
(i).	Operating expenses (including depreciation)		38,292.10	36,894.20	37,365.10	
(ii).	Finance and Miscellaneous expenses (FME)		56.90	59.60	66.50	
	Total Expenditure 1=(i)+(ii)		38,349.00	36,953.80	37,431.60	
(2).	Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP	Fo	rm 6 A and N	ote 2		

(i)	Dantagiation			I	I
(i).	Depreciation if any to be listed		-	-	-
(ii).	Other expenditure items, if any, to be listed		-	-	-
(2)	Total of Adjustments 2=(i)+(ii)+		-	-	-
(3).	Less Adjustments:		21.055.20	20 207 50	10.752.10
(i).	Actual Royalty / Revenue share paid to the port		21,855.20	20,297.50	19,752.10
(ii).	Interest on loans		-	1.00	6.70
(iii).	Provision for bad and doubtful debts		-	4.00	593.95
(iv).	Provision for slow moving inventory		-	4.00	-
(v).	Other provisions, if any		-	-	-
	Total of $3 = [3(i)+3(ii)+3(ii)+3(iv)+3(v)]$		21,855.20	20,302.50	20,352.75
(4).	Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019	Form 2 and Note 3	15,189.36	14,106.76	13,727.71
(5).	Total Expenditure after Total Adjustments (5 = 1+2	-3+4)	31,683.16	30,758.06	30,806.56
(6).	Average Expenses of SI. No.5 = [Y1 + Y2 + Y3] / 3		31,082.59		
(7).	Capital Employed				
	(i). Gross Fixed Assets (Property, Plant & Equipment)	as on 31 st			
	March 2019 (As per IGAAP)		99,652.09		
	(ii). Add: Capital Work in Progress as on 31st March 20	19 (As			
	per Audited Annual Accounts)		1.81		
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019	As p	er Form 3 & 1	Note 4	
	(a). Inventory		307.60		
	(b). Sundry Debtors		-		
	(c). Cash		2,959.77		
	(d). Sum of (a)+(b)+(c)		3,267.37		
	(iv). Total Capital Employed [(i)+(ii)+(iii)]		1,02,921.27		
(8).	Return on Capital Employed 16% on SI. No.7(iv)		16,467.40		
(9).	Annual Revenue Requirement (ARR) as on 31 Marc	ch Y3 or	47.550.00		
	31 December of Y3 as applicable [(6)+ (8)]		47,550.00		
(10).	Indexation in the ARR @ 100% of the WPI applical the year 2019-20 [(9) x 1.0426)	ole for	4.26%		
(11).	Ceiling Indexed Annual Revenue Requirement (AR)	R) as	40 575 (2		
	given in Sr. No.10 above.		49,575.63		
(12).	Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above (after Adjustment of Past Surplus) [(11)-11A)]	As per Form 4 & Note 5	42,494.72		

Annex-II Comparison of existing SOR and conditionalities *vis-à-vis* proposed tariff and conditionalities

	Comparison of existing Serv and conditionanties via a via proposed tarm and conditionanties									
Sr. No.	Existing SOR		P	Proposed SOR	Reasons/ justification for amendments in conditionalities, if any, proposed by NSICTPL	Comments of Licensor Port JNPT	Analysis			
	Schedule	Tariff and	Schedule	Tariff and						
	No.	Conditionalities	No.	Conditionalities						
1	Preface	This Scale of Rates	Preface	This Scale of Rates			Since the			
		sets out the charges		sets out the charges			revised Scale of			
		payable to Nhava		payable to Nhava			Rates and			

		Sheva International Container Terminal Private Limited for use of services and facilities provided at the Nhava Sheva International Container Terminal		Sheva International Container Terminal Private Limited for use of services and facilities provided at the Nhava Sheva International Container Terminal with effect from January 2020			conditionalities shall come into force after expiry of 30 days from the date of notification of the Order passed by the Authority, the clause has been modified by deleting the words "with effect from January 2020".
	1.2	"Coastal Vessel" shall mean any vessel exclusively employed in trading between any port or place in India having a valid coastal license issued by the competent authority.	1.2	"Coastal Vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the competent authority.	-	1	The said definition has been modified to reflect the position contained in MOS letter dated 11 November 2014 and as per Order no. TAMP/52/2014-Genl. dated 28 November 2014, which is as given below: "Coastal vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the Director General of Shipping/ Competent Authority."
3	2.1	The rates prescribed in Sections 1,2,3,4,5,6,7,8 (except item No.(ii) and(iii), 9 and item No.(ii) and 0 will be subject to upward revision by 3.86% with effect from 1.1.2011.	2.1	2.1 The Tariff prescribed in scale of rates will be increased by 60% of the variation in Wholesale price index announced by Government of India occurring between 1st January and 31st December of relevant year. Such adjusted SOR will come into force from 1st May of relevant year to 30th April of following year. The first such escalation will be effected on 1st May, 2020 and last one will be on 1st May, 2021. The individual tariff arrived after applying the annual escalation shall be rounded off to 1/100th of a paisa.	In line with clause 2.12 of Tariff Guidelines 2019	-	The clause has been slightly modified to reflect the position contained in clause 2.12 of Tariff Guidelines, 2019, The Modified clause is as under: "The SOR approved by the Authority is subject to automatic annual indexation at 60% of the Wholesale Price Index (WPI) to be announced by the Authority. The Annual Indexation will

							be from 1st May 2020. The Indexed SOR shall be intimated by the NSICTPL to the JNPT, users and to the Authority"
	2.6	Container related charges denominated in US dollar terms will be collected in equivalent Indian Rupees. For this purpose, the rate notified by the Reserve Bank of India or the rate notified by the State Bank of India or its subsidiary or any other Public Sector Bank (PSU) as may be specified from time to time prevalent on the date of entry of the vessel in to the port limits (in-case of import containers) and on the date of arrival of containers in the Terminal premises (in case of export containers) shall be applied for reconversion or the dollar denominated charges into Indian Rupees	2.6	Container related charges denominated in US dollar terms will be recovered in equivalent Indian Rupees. For this purpose, the rate notified by the Reserve Bank of India or the rate notified by the State Bank of India as may be specified from time to time prevalent on the date of entry of the vessel in to the port limits (in-case of import containers) and on the date of arrival of containers in the Terminal premises (in case of export containers) shall be reckoned as the day for such conversion.	In line with clause 5.5.1 of Tariff Guidelines 2019		The proposed modification in the Note is in line with clause 5.5.1 of Tariff Guidelines, 2019. Hence, the proposed note is approved.
5	2.8 (ii)	The rate of penal interest will be 14.25% per annum. The penal rate chosen will apply to both the NSICT and the port users equally.	2.8 (ii)	The rate of penal interest will be 15% per annum. The penal rate chosen will apply to both the NSICT and the port users equally.	In line with clause 5.4.1 of Tariff Guidelines 2019	-	The proposed modification is in line with clause 5.4.1 of Tariff Guidelines, 2019. Hence, the proposed note modification is approved.
6	Sec. 3	Charges for Hazardous container shall be 1.25 times	Sec. 3	Charges for Hazardous container shall be 1.5 times	In line with clause 9.9.3 of Working Guidelines 2019		Charges for handling Hazardous containers have been prescribed at 1.5 times of the normal containers, in line with the clause 9.9.3 of the working guidelines 2019. Hence, the proposed charges for handling hazardous containers is approved.
7	Sec. 4	Charges for Over Dimensional Cargo container shall be 2 times	Sec. 4	Charges for Over Dimensional Cargo container shall be 1.5 times	In line with clause 9.9.3 of Working Guidelines 2019		Charges for handling Over dimensional containers have been prescribed

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Scale of Rates and, in addition, also charge of Rs. 1,807.13 (for 20') handling the modification as proposed by							"Changes for	
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l levy a charge of l or Rs. 2,/10./1 (for l containers the JNPT is not			· · · · · · · · · · · · · · · · · · ·				•	
			levy a charge of		or Ks. 2,/10./1 (for		containers	the JINP1 18 not

	₹1684.87 (for 20')	40') towards inter-	between JNPT	
	or Rs.2527.33 (for	terminal transfer.	and BOT	existing
	40') towards inter-		Terminals	provision as
	terminal transfer.		If a container is	
		b. \If a container is	discharged by	
		discharged by the	the JNPT and	
	b If a container is	NSICT and loaded by	loaded by the	prescribed in the
	discharged by the	the JNPT at its	BOT Terminals	
	NSICT and loaded	terminal, the charges	and vice versa,	NSICTPL.
	by the JNPT at its	will be as under:	the charges will	
	terminal, the	(i) The NSICT will	be as under;	
	charges will be as	charge 50% of		
	under:	transshipment	50% of	
	(i) The NSICT will	container handling	Transshipment	
	charge 50% of	charges to the Line as	container	
	transshipment	per its Scale of Rates.	handling charges	
	container handling	(ii) For the same	and Lift Off/Lift	
	charges to the Line	container the JNPT	On charges as	
	as per its Scale of	will charge 50% of	per the JNPT	
	Rates.	TP handling charges	Scale of Rates	
	(ii) For the same	and in addition, also	will be charges	
	container the JNPT	levy charge towards	to the line by the	
	will charge 50% of	inter-terminal transfer	JNPT for the	
	TP handling charges	as per its Scale of	same container.	
	and in addition, also	Rates.		
	levy charge		The BOT will	
	towards inter-		charge 50% of	
	terminal transfer as		the	
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			as per its Scale	
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			its Scale of Rates	
			"	
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